

**EXHIBIT A**  
(ECIP Credit Unions  
Subordinated Debt)

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**SECURITIES PURCHASE AGREEMENT**  
**STANDARD TERMS**

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## SECURITIES PURCHASE AGREEMENT – STANDARD TERMS

### Recitals:

WHEREAS, the United States Department of the Treasury (the “*Investor*” or the “*Treasury*”) may from time to time agree to purchase subordinated debentures from Eligible Financial Institutions that elect to participate in the Emergency Capital Investment Program (“*ECIP*”);

WHEREAS, an Eligible Financial Institution electing to participate in ECIP and issue securities to the Investor shall enter into a letter agreement (the “*Letter Agreement*”) with the Investor that incorporates this Securities Purchase Agreement – Standard Terms (the Eligible Financial Institution identified in the Letter Agreement, the “*Credit Union*”);

WHEREAS, the Credit Union intends to issue in a private placement subordinated debentures (each, a “*Subordinated Security*” and together, the “*Subordinated Debt*”), in an amount as set forth on Schedule A to the Letter Agreement and the Investor intends to purchase (the “*Purchase*”) from the Credit Union the Subordinated Debt;

WHEREAS, the Credit Union (i) provides, among other things, loans, grants, and forbearance for small businesses, minority-owned businesses, and consumers, in Target Communities; and (ii) intends to participate in the ECIP to increase its Qualified Lending in Target Communities that may be disproportionately impacted by the economic effects of the COVID-19 pandemic, as set forth in the Investment and Lending Plan submitted to the Investor as part of the Credit Union’s ECIP Application; and

WHEREAS, the Purchase will be governed by this Securities Purchase Agreement – Standard Terms and the Letter Agreement, including the schedules thereto (the “*Schedules*”), specifying additional terms of the Purchase. This Securities Purchase Agreement – Standard Terms (including the Annexes hereto) and the Letter Agreement (including the Schedules thereto) are together referred to as this “*Agreement*”. All references in this Securities Purchase Agreement – Standard Terms to “*Schedules*” are to the Schedules attached to this Securities Purchase Agreement. The Disclosure Schedule (as defined below) shall be attached to the Letter Agreement.

**NOW, THEREFORE**, in consideration of the premises, and of the representations, warranties, covenants and agreements set forth herein, the parties agree as follows:

### ARTICLE I

Section 1.1 Definitions. Except as otherwise specified herein or as the context may otherwise require, the following terms have the respective meanings set forth below for all purposes of this Agreement.

“*Affiliate*” means (a) with respect to any person, any person directly or indirectly controlling, controlled by or under common control with, such other person, and (b) with respect to the Credit Union, a credit union service organization, as defined under 12 C.F.R. Part 712. For purposes of this definition, “*control*” (including, with correlative meanings, the terms “*controlled*”



by” and “*under common control with*”), when used with respect to any person, means the possession, directly or indirectly, of the power to cause the direction of management and/or policies of such person, whether through the ownership of voting securities by contract or otherwise.

“*Appropriate Supervisory Authority*” means the National Credit Union Administration in the case of credit unions chartered under the Federal Credit Union Act and the appropriate State Supervisory Authority along with the National Credit Union Administration, where applicable, in the case of state-chartered credit unions whose share accounts are insured by the National Credit Union Share Insurance Fund.

“*Bank Holding Company*” has the meaning set forth in the definition of Eligible Financial Institution.

“*Baseline*” means the “Baseline Qualified Lending” set forth on the Initial Supplemental Report, subject to adjustment as provided in the applicable Quarterly Supplemental Report.

“*Board of Directors*” has the meaning set forth in [Section 2.3\(e\)](#).

“*Call Report*” means the NCUA’s call report for Credit Unions on Form 5300.

“*Capitalization Date*” means the most recent fiscal month-end preceding the Signing Date.

“*CDFI*” means a regulated community development financial institution currently certified by the CDFI Fund pursuant to 12 C.F.R. § 1805.201(a) as having satisfied the eligibility requirements of the Community Development Financial Institutions Program and that satisfies the eligibility requirements for a community development financial institution set forth in 12 C.F.R. § 1805.201 (b)(1) – (6).

“*CDFI Fund*” means the Community Development Financial Institution Fund of the United States Department of the Treasury.

“*Community Development Banking Act*” means the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. § 4701 *et seq.*).

“*Contagion Event*” means the outbreak or continued presence of contagious disease, epidemic or pandemic (including SARS-CoV-2 or COVID-19, or any evolutions or mutations of thereof, or any other viruses (including influenza)), and the governmental responses thereto.

“*Contagion Event Measures*” means any quarantine, “shelter in place”, “stay at home”, workforce reduction, social distancing, shut down, closure, sequester or other directives, guidelines or recommendations promulgated by any Governmental Entity, including the Centers for Disease Control and Prevention and the World Health Organization, in each case, in connection with or in response to a Contagion Event.

“*Disclosure Schedule*” means the schedule to the Letter Agreement delivered to the Investor on or prior to the Signing Date, setting forth, among other things, items the disclosure of which is necessary or appropriate either in response to an express disclosure requirement contained

in a provision hereof or as an exception to one or more representations or warranties contained in Section 3.1.

“*ECIP Application*” has the meaning set forth in the definition of Eligible Financial Institution.

“*ECIP Interim Final Rule*” means the interim final rule promulgated by the Investor setting forth restrictions on executive compensation, share buybacks and dividends applicable to participants in ECIP, originally codified at 31 C.F.R. Part 35.

“*ECIP Period*” has the meaning set forth in the ECIP Interim Final Rule.

“*Eligible Financial Institution*” means a financial institution that is, as of the date of submitting an application to participate in ECIP (the “*ECIP Application*”), and as of the Signing Date (1)(i) a CDFI or (ii) a MDI; and (2)(i) an insured depository institution not controlled by a company registered as a bank holding company with the Federal Reserve pursuant to 12 U.S.C. § 1842 (a “*Bank Holding Company*”) or a company registered as a savings and loan holding company with the Federal Reserve pursuant to 12 U.S.C. § 1467(a) (a “*Savings and Loan Holding Company*”) that is also an Eligible Financial Institution, (ii) a Bank Holding Company; (iii) a Savings and Loan Holding Company; or (iv) any credit union the member accounts of which are insured by the National Credit Union Share Insurance Fund.

“*Eligible Nonprofit*” has the meaning set forth in Section 6.6(f)(iv).

“*Event of Default*” has the meaning set forth in Section 5.1.

“*Exchange Act*” means the Securities Exchange Act of 1934 (15 U.S.C. § 78a *et seq.*).

“*Existing Parity Subordinated Debt*” means subordinated debt of the Credit Union outstanding on the Signing Date that ranks equally with the Subordinated Debt and is identified on Schedule A.

“*Extraordinary Dividends*” means any extraordinary or special dividends paid on Capital Interests or other capital instruments of any kind of the Credit Union in excess of dividends paid at the stated market dividend rates on share accounts and other deposit liabilities of Members and the stated interest or dividend rates payable on any other capital instruments of the Credit Union.

“*GAAP*” means generally accepted accounting principles in the United States.

“*Grandfathered Secondary Capital*” has the meaning set forth in 12 C.F.R. § 702.2.

“*Holder*” means a holder of the Subordinated Debt.

“*Indebtedness*” means, whether or not recourse is to all or a portion of the assets of the Credit Union and whether or not contingent, (i) the claims of the Credit Union’s secured and general creditors; (ii) every obligation of the Credit Union for money borrowed; (iii) every obligation of the Credit Union evidenced by bonds, debentures, notes or other similar instruments, including obligations incurred in connection with the acquisition of property, assets or businesses;

(iv) every reimbursement obligation of the Credit Union, contingent or otherwise, with respect to letters of credit, bankers' acceptances, security purchase facilities or similar facilities issued for the account of the Credit Union; (v) every obligation of the Credit Union issued or assumed as the deferred purchase price of property or services; (vi) every capital lease obligation of the Credit Union; (vii) all indebtedness of the Credit Union for claims in respect of derivative products, including interest rate, foreign exchange rate and commodity forward contracts, options and swaps and similar arrangements; (viii) every obligation of the type referred to in clauses (i) through (vii) of another person and all dividends of another person the payment of which, in either case, the Credit Union has guaranteed or is responsible or liable for directly or indirectly, as obligor or otherwise; and (ix) every obligation of the type referred to in clauses (i) through (vii) of another person and all dividends of another person the payment of which, in either case, is secured by a lien on any property or assets of the Credit Union.

“*Insured CDFI*” means an insured community development financial institution, as defined in 12 U.S.C. § 4702(13).

“*Interest Deferral Period*” means the period during which an installment of interest is deferred in accordance with Section 6.14.

“*Interest Period*” means the period from and including any Interest Payment Date to, but excluding, the next following Interest Payment Date; *provided, however*, the initial Interest Period shall be the period from and including the Second Anniversary to the next succeeding Interest Payment Date; ~~*provided, further, that if the Second Anniversary is a date that is an Interest Payment Date, then the initial Interest Period shall be the period from and including the Second Anniversary to, but excluding the next Interest Payment Date.*~~ Interest Payment Dates and Interest Periods will not be adjusted for business days.

“*Investment and Lending Plan*” means an investment and lending plan of the Credit Union that meets the criteria set forth in Section 104A(d)(4) of the Community Development Banking Act.

“*knowledge of the Credit Union*” or “*Credit Union's knowledge*” means the actual knowledge after reasonable and due inquiry of the “*officers*” (as defined in Rule 3b-2 under the Exchange Act) of the Credit Union.

“*Material Adverse Effect*” means a material adverse effect on (i) the business, results of operation or financial condition of the Credit Union and its consolidated subsidiaries taken as a whole; *provided, however*, that Material Adverse Effect shall not be deemed to include the effects of (A) changes after the date of the Letter Agreement (the “*Signing Date*”) in general business, economic or market conditions (including changes generally in prevailing interest rates, credit availability and liquidity, currency exchange rates and price levels or trading volumes in the United States or foreign securities or credit markets), or any outbreak or escalation of hostilities, declared or undeclared acts of war or terrorism, in each case generally affecting the industries in which the Credit Union and its subsidiaries operate (including any such changes resulting from a Contagion Event), (B) changes or proposed changes after the Signing Date in GAAP or RAP, or authoritative interpretations thereof, or (C) changes or proposed changes after the Signing Date in securities, banking and other laws of general applicability or related policies or interpretations of

Governmental Entities, including any law in respect of Taxes, and laws newly enacted for, relating to or arising out of efforts to implement Contagion Event Measures and address the spread of any Contagion Event (in the case of each of these clauses (A), (B) and (C), other than changes or occurrences to the extent that such changes or occurrences have or would reasonably be expected to have a materially disproportionate adverse effect on the Credit Union and its consolidated subsidiaries taken as a whole relative to comparable U.S. banking or financial services organizations); or (ii) the ability of the Credit Union to consummate the Purchase and other transactions contemplated by this Agreement and perform its obligations hereunder or thereunder on a timely basis.

“*MDI*” means a minority depository institution, (i) as defined in section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. § 1463 *et seq.*); or (ii) considered to be a minority depository institution by the National Credit Union Administration or the “appropriate Federal banking agency” as defined in Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(q)), as applicable; or (iii) as listed in the Federal Deposit Insurance Corporation’s Minority Depository Institutions List published for the third quarter of 2020.

“*Members*” means persons having ownership rights in the Credit Union by virtue of their ownership of a deposit at the Credit Union.

“*Offer Price*” has the meaning set forth in Section 6.6(f)(ii).

“*Offered Securities*” has the meaning set forth in Section 6.6(f)(ii).

“*Original Issue Date*” means the date on which the Subordinated Debt is issued by the Credit Union to the Investor.

“*Previously Disclosed*” means information set forth in the Disclosure Schedule or the Disclosure Update, as applicable; *provided, however*, that disclosure in any section of such Disclosure Schedule or Disclosure Update, as applicable, shall apply only to the indicated section of this Agreement except to the extent that it is reasonably apparent from the face of such disclosure that such disclosure is relevant to another section of this Agreement; *provided, further*, that the inclusion of information in a Disclosure Update shall not be deemed to correct an existing breach or misrepresentation and, therefore, shall not obligate the Investor to consummate the Purchase or limit or affect any rights of or remedies available to the Investor.

“*Qualified Lending*” has the meaning set forth in the definition of Qualified Lending in the applicable Supplemental Report.

“*RAP*” means regulatory accounting practices.

“*Related Party*” has the meaning set forth in Section 3.1(x).

“*Response Notice*” has the meaning set forth in Section 6.6(f)(ii).

“*Review Period*” has the meaning set forth in Section 6.6(f)(ii).

“*ROFR Notice*” has the meaning set forth in Section 6.6(f)(ii).

“*Savings and Loan Holding Company*” has the meaning set forth in the definition of Eligible Financial Institution.

“*Senior Executive Officer*” has the meaning set forth in the ECIP Interim Final Rule.

“*Senior Indebtedness*” means, with respect to the Subordinated Debt, (i) all deposit liabilities of the Credit Union, (ii) the principal of (and premium, if any) and interest, if any (including interest accruing on or after the appointment of a receiver or conservator relating to the Credit Union, whether or not such claim for post appointment interest is allowed), on all Indebtedness, whether outstanding on the date of execution of this Agreement, or hereafter created, assumed or incurred, and any deferrals, renewals or extensions of such Indebtedness, (iii) any obligation to holders of Capital Interests or shares of equity in the Credit Union (if and upon conversion of the Credit Union to a stock-based entity) arising as a result of their status as holders of such Capital Interests or shares of equity and (iv) any claims of the National Credit Union Share Insurance Fund; *provided, however*, that Senior Indebtedness shall not include (A) Existing Parity Subordinated Debt, or (B) any other subordinated debt of the Credit Union that by its terms ranks *pari passu* or junior to the Subordinated Debt issued hereunder. For the avoidance of doubt, if the Subordinated Debt issued hereunder is Grandfathered Secondary Capital, as of the Signing Date, the Subordinated Debt issued hereunder ranks equally with all other subordinated debt that is Grandfathered Secondary Capital and, as of the Signing Date, there is no subordinated debt that ranks junior to the Subordinated Debt.

“*Signing Date*” has the meaning set forth in the definition of Material Adverse Effect.

“*State Supervisory Authority*” means the appropriate governmental agency of the state in which the Credit Union is chartered, which regulates state-chartered credit unions.

“*subsidiary*” means any corporation, partnership, joint venture, limited liability company, credit union or other entity (i) of which such person or a subsidiary of such person is a general partner or (ii) of which a majority of the voting securities or other voting interests, or a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors or persons performing similar functions with respect to such entity, is directly or indirectly owned by such person and/or one or more subsidiaries thereof.

“*Supplemental Reports*” means, collectively, the Initial Supplemental Report and the Quarterly Supplemental Reports.

“*Target Communities*” means the categories of communities set forth under the “Categories of Target Communities” heading in the “Rate Reduction Incentive Guidelines” published by the Treasury.

“*Tax*” or “*Taxes*” means any federal, state, local or foreign income, gross receipts, property, sales, use, license, excise, franchise, employment, payroll, withholding, alternative or add-on minimum, *ad valorem*, transfer or excise tax, or any other tax, custom, duty, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest, penalty or addition imposed by any Governmental Entity.

“*Transaction Documents*” means this Agreement, the Letter Agreement, the Subordinated Debt, and all other instruments, documents and agreements executed by or on behalf of the Credit Union and delivered concurrently herewith or at any time hereafter to or for the benefit of any Holders in connection with the transactions contemplated by this Agreement, all as amended, supplemented or modified from time to time.

“*Transfer*” has the meaning set forth in Section 6.6(f).

Section 1.2 Interpretation. When a reference is made in this Agreement to “Recitals,” “Articles,” “Sections,” or “Annexes” such reference shall be to a Recital, Article or Section of, or Annex to, this Securities Purchase Agreement – Standard Terms, a reference to “Schedules” shall be to a Schedule to this Securities Purchase Agreement and a reference to “Disclosure Schedules,” shall be to the Disclosure Schedule to the Letter Agreement, in each case, unless otherwise indicated. The terms defined in the singular have a comparable meaning when used in the plural, and vice versa. References to “herein”, “hereof”, “hereunder” and the like refer to this Agreement as a whole and not to any particular section or provision, unless the context requires otherwise. The table of contents and headings contained in this Agreement are for reference purposes only and are not part of this Agreement. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed followed by the words “without limitation”. No rule of construction against the draftsperson shall be applied in connection with the interpretation or enforcement of this Agreement, as this Agreement is entered into between sophisticated parties having access to counsel. All references to “\$” or “dollars” mean the lawful currency of the United States of America. Except as expressly stated in this Agreement, all references to any statute, rule or regulation are to the statute, rule or regulation as amended, modified, supplemented or replaced from time to time (and, in the case of statutes, include any rules and regulations promulgated under the statute and, in the case of interim final rules, include such rules as may be finalized, revised or succeeded by a final rule) and to any section of any statute, rule or regulation include any successor to the section. References to a “*business day*” shall mean any day except Saturday, Sunday and any day on which banking institutions in the State of New York or the District of Columbia generally are authorized or required by law or other governmental actions to close.

Section 1.3 Disclosure Restrictions. No representation, warranty, covenant or other agreement or provision contained in this Agreement shall be deemed to contemplate or require the disclosure of “confidential supervisory information” or other similar information the disclosure of which is restricted pursuant to laws and regulations to which the Credit Union is subject, including 12 C.F.R. Part 792 of the NCUA Regulations.

## **ARTICLE II PURCHASE; CLOSING**

Section 2.1 Purchase. On the terms and subject to the conditions set forth in this Agreement, the Credit Union agrees to sell and the Investor agrees to purchase, at the Closing (as hereinafter defined), the Subordinated Debt in the form attached hereto as Annex A, appropriately completed in conformity herewith and duly and validly issued, authorized and executed by the Credit Union, in the aggregate principal amount set forth on Schedule A for the purchase price set forth on Schedule A (the “*Purchase Price*”). The Subordinated Debt, including the principal and

interest, shall be unsecured and subordinate and junior in right of payment to Senior Indebtedness and other claims in the liquidation of the Credit Union to the extent set forth in Article VII hereof.

Section 2.2 Closing.

(a) On the terms and subject to the conditions set forth in this Agreement, the closing of the Purchase (the “*Closing*”) will take place by electronic exchange of documents at 8:00 am, New York City time, on the date set forth in Schedule A or as soon as practicable thereafter, or at such other time and date as shall be agreed between the Credit Union and the Investor. The time and date on which the Closing occurs is referred to in this Agreement as the “*Closing Date*”.

(b) Subject to the fulfillment or waiver of the conditions to Closing in Section 2.3, at the Closing the Credit Union will deliver, by registered mail or by courier or express delivery service (with confirmation of delivery, and tracking information, where possible) to the address provided in Schedule A, the Subordinated Debt as evidenced by one or more debentures dated as of the Closing Date and bearing appropriate legends as hereinafter provided for, in exchange for payment in full of the Purchase Price by wire transfer of immediately available United States funds to a bank account or credit union account designated by the Credit Union on Schedule A.

Section 2.3 Closing Conditions. The obligation of the Investor to consummate the Purchase is subject to the fulfillment (or waiver by the Investor) at or prior to the Closing of each of the following conditions:

(a) (i) any approvals or authorizations of all United States and other governmental, regulatory or judicial authorities (each, a “*Governmental Entity*”, and collectively, “*Governmental Entities*”) required for the consummation of the Purchase shall have been obtained or made in form and substance reasonably satisfactory to each party and shall be in full force and effect and all waiting periods required by United States and other applicable law, if any, shall have expired and (ii) no provision of any applicable United States or other law and no judgment, injunction, order or decree of any Governmental Entity shall prohibit the purchase and sale of the Subordinated Debt as contemplated by this Agreement;

(b) (i) the representations and warranties of the Credit Union set forth in Section 3.1 shall be true and correct in all respects as though made on and as of the Closing Date (other than representations and warranties that by their terms speak as of another date, which representations and warranties shall be true and correct in all respects as of such other date) and (ii) the Credit Union shall have performed in all respects all obligations required to be performed by it under this Agreement at or prior to the Closing;

(c) the Credit Union shall have delivered to the Investor a certificate signed on behalf of the Credit Union by a Senior Executive Officer, in substantially the form attached hereto as Annex B;

(d) if applicable, the Credit Union shall have duly adopted and filed with the Secretary of State of its jurisdiction of organization or other applicable Governmental Entity, an amendment to its certificate or articles of incorporation, articles of association, organization certificate or similar organizational document (“*Charter*”) and its bylaws as in effect on the Closing Date;

(e) the Credit Union shall have delivered to the Investor true, complete and correct certified copies of the Charter and bylaws of the Credit Union and the resolutions of the Board of Directors of the Credit Union (the “*Board of Directors*”) authorizing the execution and delivery of this Agreement and the performance of its obligations hereunder, including the issuance of the Subordinated Debt;

(f) the Credit Union shall have delivered to the Investor a good standing or equivalent certificate from the Secretary of State of its jurisdiction of organization or other applicable Governmental Entity, dated as of a recent date, with respect to the existence, organization and, if applicable, good standing of the Credit Union, provided, however, that if a good standing or equivalent certificate cannot be obtained for a credit union in the Credit Union’s jurisdiction of organization, the Credit Union shall have delivered to the Investor a certificate of existence or equivalent certificate from the NCUA or State Supervisory Authority and provided, further, that if such a certificate of existence or equivalent certificate cannot be obtained for a credit union in the Credit Union’s jurisdiction of organization, the Credit Union shall have delivered to the Investor a certificate of insurance or equivalent certificate from the NCUA;

(g) the Credit Union shall have delivered to the Investor a certificate addressing the incumbency of each officer of the Credit Union who signs the Letter Agreement, the certificate referred to in Section 2.3(c) and, if applicable, the debentures representing the Subordinated Debt (*provided* that if any such officer ceases to serve in such officer’s position following the Signing Date, then the Credit Union shall deliver a duly updated incumbency certificate reflecting the incumbency of the respective officers as of the Closing);

(h) the Credit Union shall have delivered to the Investor a written opinion from counsel to the Credit Union (which may be internal counsel), addressed to the Investor and dated as of the Closing Date, in substantially the form attached hereto as Annex C;

(i) the Credit Union shall have delivered to the Investor, or the designee identified in writing (which may be via e-mail) by the Investor prior to the Closing Date, physical debentures in proper form evidencing the Subordinated Debt to the Investor or its designee(s) in the form attached hereto as Annex A;

(j) the Credit Union shall have delivered to the Investor a copy of the Disclosure Schedule on or prior to the Signing Date and, to the extent that any information set forth on the Disclosure Schedule needs to be updated or supplemented to make it true, complete and correct as of the Closing Date, (i) the Credit Union shall have delivered to the Investor an update to the Disclosure Schedule (the “*Disclosure Update*”), setting forth any information necessary to make the Disclosure Schedule true, correct and complete as of the Closing Date and (ii) the Investor, in its sole discretion, shall have approved the Disclosure Update, *provided, however*, that the delivery and acceptance of the Disclosure Update shall not be deemed to obligate the Investor to consummate the Purchase nor limit or affect any rights of or remedies available to the Investor;

(k) the Credit Union shall have delivered to the Investor on or prior to the Signing Date each of the consolidated financial statements of the Credit Union and its consolidated subsidiaries for each of the last three (3) completed fiscal years of the Credit Union (which shall be audited to the extent audited financial statements are available prior to the Signing Date) and each completed



quarterly period since the last completed fiscal year (collectively, the “*Credit Union Financial Statements*”);

(l) if the Credit Union is a low-income designated Credit Union and the Credit Union received notice from the Appropriate Supervisory Authority on or before December 31, 2021 that a “*Secondary Capital Plan*” (within the meaning of previously effective Section 701.34(b), recodified as Section 702.414, of the regulations promulgated by the National Credit Union Administration (the “*NCUA*”) and codified in 12 C.F.R. Parts 700-797 (the “*NCUA Regulations*”), covering the Subordinated Debt has been approved (the “*SCP Notice*”), the Credit Union shall have delivered to Investor a certified copy of the SCP Notice;

(m) if the Credit Union is a low-income designated Credit Union, the Credit Union shall have delivered to the Investor a copy of a “*Disclosure and Acknowledgement*” (within the meaning of Section 702.414(a)(11) of the NCUA Regulations) executed by the Credit Union and the Investor as of the Signing Date in the form attached hereto as Annex E; and

(n) at least ten (10) business days prior to the Closing Date, the Credit Union shall have delivered to the Investor (i) a report, in a form substantially similar to that posted on Investor’s ECIP website, setting forth its calculation of Qualified Lending for the annual period ending on September 30, 2020 (the “*Initial Supplemental Report*”) and (ii) a certification signed by the Credit Union’s principal executive officer or principal financial officer (each as defined in the ECIP Interim Final Rule), certifying to the Investor that the information provided in the Initial Supplemental Report is accurate; and

(o) at least ten (10) business days prior to the Closing Date, the Credit Union shall have delivered to the Investor and the NCUA, an Investment and Lending Plan describing to the satisfaction of the Investor: (i) how the Credit Union’s business strategy and operating goals will address the community development needs in communities that may be disproportionately impacted by the economic effects of COVID-19, which includes the needs of small businesses, consumers, nonprofit organizations and other projects in Target Communities; (ii) a plan to provide community outreach and communication; and (iii) how the Credit Union plans to expand or maintain significant lending or investment activity in low- or moderate-income and minority communities, especially those that may be disproportionately impacted by COVID-19, to historically disadvantaged borrowers, and to minorities that have significant unmet capital or financial services needs.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES**

Section 3.1 Representations and Warranties of the Credit Union. Except as Previously Disclosed, the Credit Union represents and warrants to the Investor that as of the Signing Date and as of the Closing Date (or such other date specified herein):

(a) Organization, Authority and Significant Subsidiaries. The Credit Union has been duly formed and is validly existing and, if applicable, in good standing as a credit union chartered under the laws of its jurisdiction of organization, with the necessary power and authority to own, operate and lease its properties and conduct its business in all material respects as it is being

currently conducted, and except as has not, individually or in the aggregate, had and would not reasonably be expected to have a Material Adverse Effect, has been duly qualified as a foreign entity for the transaction of business and, if applicable, is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification; each subsidiary of the Credit Union (each, a “*Credit Union Subsidiary*” and, collectively, the “*Credit Union Subsidiaries*”) that would be considered a “significant subsidiary” within the meaning of Rule 1-02(w) of Regulation S-X under the Securities Act of 1933 (the “*Securities Act*”) (each such Credit Union Subsidiary, a “*Significant Subsidiary*”), has been duly formed and is validly existing in good standing under the laws of its jurisdiction of organization. The Charter and bylaws of the Credit Union, copies of which have been provided to the Investor prior to the Signing Date, are true, complete and correct copies of such documents as in full force and effect as of the Signing Date and as of the Closing Date.

(b) Capitalization. The authorized and outstanding credit union membership share interests and accounts, regardless of form (“*Member Shares*”) and capital instruments authorized by law, including subordinated debt (“*Other Capital Instruments*” and, together with the Member Shares, collectively, the “*Capital Interests*”) and any authorized or outstanding instruments convertible into, or exercisable or exchangeable for, Capital Interests, as of the most recent fiscal month-end preceding the Signing Date (the “*Capitalization Date*”) are set forth on Schedule B. The outstanding Capital Interests in the Credit Union have been duly authorized and are validly issued and outstanding, fully paid and nonassessable. Each holder of ~~five~~ percent (~~5%~~) or more of Other Capital Instruments and such holder’s primary address are set forth on Schedule B. The Other Capital Instruments are not subject to preemptive rights (and were not issued in violation of any preemptive rights). On the Signing Date, the Credit Union does not have outstanding any securities or other obligations providing the holder the right to acquire its Other Capital Instruments that are not reserved for issuance as specified on Schedule B, and the Credit Union has not made any other commitment to authorize, issue or sell any Other Capital Instruments that is not specified on Schedule B. Since the Capitalization Date, the Credit Union has not issued any Other Capital Instruments, except as disclosed on Schedule B.

(c) Subordinated Debt; Enforceability. This Agreement has been duly authorized, executed and delivered and is, and the Subordinated Debt, when executed and delivered, will be, the legal, valid and binding obligations of the Credit Union, each enforceable in accordance with its respective terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, receivership, conservatorship, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors’ rights generally and general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity (“*Bankruptcy Exceptions*”). The aggregate principal amount of the Subordinated Debt does not exceed the maximum specified in the Letter Agreement.

(d) Eligible Financial Institution Status; ECIP Application Matters.

(i) The Credit Union (A) is chartered under either (x) the Federal Credit Union Act of June 26, 1934 (the “*Federal Credit Union Act*”) or (y) the laws of any State, the District of Columbia or any territory or possession of the United States; (B) has its deposits insured by the National Credit Union Share Insurance Fund, if it is not chartered under the

Federal Credit Union Act; (C) is a “natural person credit union” as defined in 12 C.F.R. § 725.2(m); and (D) is not a “corporate credit union” as defined in 12 C.F.R. § 704.2.

(ii) The Credit Union satisfies the definition of “Eligible Financial Institution” and is in compliance with Section 104A of the Community Development Banking Act, and all rules and regulations issued by the Investor thereunder, including the ECIP Interim Final Rule.

(iii) The (A) information provided by the Credit Union in the ECIP Application is true, correct and complete in all material respects and (B) projections included in the Investment and Lending Plan submitted as part of the ECIP Application were reasonable on the date the ECIP Application was submitted to the Investor, ~~and continue to be reasonable as of the date hereof.~~

~~(iv) The Credit Union has not made any material changes, nor are any material changes anticipated to be made, to the Investment and Lending Plan the Credit Union submitted in connection with its ECIP Application.~~

~~(v)(iv)~~ Neither the Credit Union nor any Credit Union Subsidiary is a “covered entity” as defined in Section 104A(h)(2)(ii) of the Community Development Banking Act.

~~(vi)(v)~~ The Credit Union is not ineligible to participate in ECIP under Section 104A(i), or any other provision, of the Community Development Banking Act.

(e) Authorization, No Conflict.

(i) The Credit Union has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder (which includes the issuance of the Subordinated Debt) and, when issued, under the Subordinated Debt. The execution, delivery and performance by the Credit Union of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action on the part of the Credit Union and its Members and other non-Member holders of Capital Interests (collectively, “*Interest Holders*”), and no further approval or authorization is required on the part of the Credit Union. The resolutions of the Board of Directors authorizing the execution and delivery of this Agreement and the performance of the Credit Union’s obligations hereunder, including the issuance of the Subordinated Debt, a copy of which ~~have~~has been provided to the Investor prior to the Signing Date, are true, complete and correct copies of such documents as in full force and effect as of the Signing Date and as of the Closing Date.

(ii) The execution, delivery and performance by the Credit Union of this Agreement and the consummation of the transactions contemplated hereby and compliance by the Credit Union with the provisions hereof, will not (A) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration of, or result in the creation of any lien, security interest, charge or encumbrance upon any of the properties or assets of the Credit Union or any Credit Union Subsidiary under any

of the terms, conditions or provisions of (x) its organizational documents or (y) any note, debenture, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which the Credit Union or any Credit Union Subsidiary is a party or by which it or any Credit Union Subsidiary may be bound, or to which the Credit Union or any Credit Union Subsidiary or any of the properties or assets of the Credit Union or any Credit Union Subsidiary may be subject, or (B) subject to compliance with the statutes and regulations referred to in the next paragraph, violate any statute, rule or regulation or any judgment, ruling, order, writ, injunction or decree applicable to the Credit Union or any Credit Union Subsidiary or any of their respective properties or assets except, in the case of clauses (A)(y) and (B), for those occurrences that, individually or in the aggregate, have not had and would not reasonably be expected to have a Material Adverse Effect.

(iii) Other than such filings and approvals as are required to be made or obtained under any state “blue sky” laws and such as have been made or obtained, no notice to, filing with, exemption or review by, or authorization, consent or approval of, any Governmental Entity is required to be made or obtained by the Credit Union in connection with the consummation by the Credit Union of the Purchase except for any such notices, filings, exemptions, reviews, authorizations, consents and approvals the failure of which to make or obtain would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(f) Charter; Bylaws; Agreements among Interest Holders; Anti-takeover Provisions and Rights Plan. The Board of Directors has taken all necessary action to ensure that the transactions contemplated by this Agreement and the consummation of the transactions contemplated hereby (i) are not prohibited by the Credit Union’s Charter and bylaws or other organizational documents, or any operating agreement or agreement among the Interest Holders of the Credit Union, and has obtained all consents required by its Charter, bylaws or other organizational documents or by such operating agreement or agreements among Interest Holders of the Credit Union, or has amended the Charter and bylaws, as is necessary, in order to consummate the transactions contemplated by this Agreement and (ii) will be exempt from any anti-takeover or similar provisions of the Credit Union’s Charter and bylaws, and any other provisions of any applicable “moratorium”, “control share”, “fair price”, “interested stockholder” or other anti-takeover laws and regulations of any jurisdiction.

(g) No Material Adverse Effect. Since the last day of the last completed fiscal period for which financial statements are included in the Credit Union Financial Statements, no fact, circumstance, event, change, occurrence, condition or development has occurred that, individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect, except as disclosed on Schedule C.

(h) Credit Union Financial Statements. The Credit Union Financial Statements present fairly in all material respects the consolidated financial position of the Credit Union and its consolidated subsidiaries as of the dates indicated therein and the consolidated results of their operations for the periods specified therein; and except as stated therein, such financial statements (i) were prepared in conformity with either (x) if the Credit Union has assets greater than \$10,000,000, GAAP applied on a consistent basis (except as may be noted therein) or (y) if the

Credit Union has assets under \$10,000,000, RAP applied on a consistent basis (except as may be noted therein) and (ii) have been prepared from, and are in accordance with, the books and records of the Credit Union and the Credit Union Subsidiaries.

(i) Reports.

(i) Since December 31, 2019, the Credit Union and each Credit Union Subsidiary has filed all reports, registrations, documents, filings, statements and submissions, together with any amendments thereto, that it was required to file with any Governmental Entity (the foregoing, collectively, the “*Credit Union Reports*”) and has paid all fees and assessments due and payable in connection therewith, except, in each case, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. As of their respective dates of filing, the Credit Union Reports complied in all material respects with all statutes and applicable rules and regulations of the applicable Governmental Entities.

(ii) The records, systems, controls, data and information of the Credit Union and the Credit Union Subsidiaries are recorded, stored, maintained and operated under means (including any electronic, mechanical or photographic process, whether computerized or not) that are under the exclusive ownership and direct control of the Credit Union or the Credit Union Subsidiaries or their accountants (including all means of access thereto and therefrom), except for any non-exclusive ownership and non-direct control that would not reasonably be expected to have a material adverse effect on the system of internal accounting controls described below in this Section 3.1(i)(ii). The Credit Union (A) has implemented and maintains adequate disclosure controls and procedures to ensure that material information relating to the Credit Union, including the consolidated Credit Union Subsidiaries, is made known to the chief executive officer and the chief financial officer of the Credit Union by others within those entities, and (B) has disclosed, based on its most recent evaluation prior to the Signing Date, to the Credit Union’s outside auditors and the audit committee of the Board of Directors of the Credit Union (x) any significant deficiencies and material weaknesses in the design or operation of internal controls that are reasonably likely to adversely affect the Credit Union’s ability to record, process, summarize and report financial information and (y) any fraud, whether or not material, that involves management or other employees who have a significant role in the Credit Union’s internal controls over financial reporting.

(j) No Undisclosed Liabilities. Neither the Credit Union nor any of the Credit Union Subsidiaries has any liabilities or obligations of any nature (absolute, accrued, contingent or otherwise) which are not properly reflected or reserved against in the Credit Union Financial Statements to the extent required to be so reflected or reserved against in accordance with GAAP, except for (i) liabilities that have arisen since the last fiscal year end in the ordinary and usual course of business and consistent with past practice and (ii) liabilities that, individually or in the aggregate, have not had and would not reasonably be expected to have a Material Adverse Effect.

(k) Offering of Securities. Neither the Credit Union nor any person acting on its behalf has taken any action (including any offering of any securities of the Credit Union under circumstances which would require the integration of such offering with the offering of any of the

Subordinated Debt under the Securities Act, and the rules and regulations of the Securities and Exchange Commission (the “SEC”) promulgated thereunder), which might subject the offering, issuance or sale of any of the Subordinated Debt to Investor pursuant to this Agreement to the registration requirements of the Securities Act. The offering of the Subordinated Debt is exempt from registration under the Securities Act pursuant to Section 3(a)(5) or 4(a)(2) of the Securities Act, or such other exemption from registration as identified by the Credit Union in Schedule A of the Letter Agreement.

(l) Litigation and Other Proceedings. Except (i) as set forth on Schedule D or (ii) as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, there is no (A) pending or, to the knowledge of the Credit Union, threatened, claim, action, suit, investigation or proceeding against the Credit Union or any Credit Union Subsidiary or to which any of their assets are subject, nor is the Credit Union or any Credit Union Subsidiary subject to any order, judgment or decree, or (B) unresolved violation, criticism or exception by any Governmental Entity with respect to any report or relating to any examinations or inspections of the Credit Union or any Credit Union Subsidiaries. There is no claim, action, suit, investigation or proceeding pending or, to the Credit Union’s knowledge, threatened against any institution-affiliated party (as defined in 12 C.F.R. § 750.1) of the Credit Union or any Credit Union Subsidiary that, if determined or resolved in a manner adverse to such institution-affiliated party, could result in such institution-affiliated party being prohibited from participation in the conduct of the affairs of any financial institution or holding company of any financial institution and, to the Credit Union’s knowledge, there are no facts or circumstances that could reasonably be expected to provide a basis for any such claim, action, suit, investigation or proceeding.

(m) Compliance with Laws. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, the Credit Union and the Credit Union Subsidiaries have all permits, licenses, franchises, authorizations, orders and approvals of, and have made all filings, applications and registrations with, Governmental Entities that are required in order to permit them to own or lease their properties and assets and to carry on their business as presently conducted and that are material to the business of the Credit Union or such Credit Union Subsidiary. The Credit Union has all permits, licenses, franchises, authorizations, orders and approvals of, and has made all filings, applications and registrations with, Governmental Entities and third parties that are required in order to permit the Credit Union to pay interest on the Subordinated Debt on the Interest Payment Dates set forth in the form of Subordinated Security, except such as may be required to be obtained or made after the Closing Date under federal or state laws or regulations relating to capital adequacy, including 12 C.F.R. Part 702. Except as set forth on Schedule E, the Credit Union and the Credit Union Subsidiaries have complied in all respects and are not in default or violation of, and none of them is, to the knowledge of the Credit Union, under investigation with respect to or, to the knowledge of the Credit Union, have been threatened to be charged with or given notice of any violation of, any applicable domestic (federal, state or local) or foreign law, statute, ordinance, license, rule, regulation, policy or guideline, order, demand, writ, injunction, decree or judgment of any Governmental Entity, other than such noncompliance, defaults or violations that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except for statutory or regulatory restrictions of general application or as set forth on Schedule E, no Governmental Entity has placed any restriction on the business or properties of the Credit Union or any Credit Union Subsidiary that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(n) Employee Benefit Matters. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect: (i) each “employee benefit plan” (within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974 (“ERISA”)) providing benefits to any current or former employee, officer or director of the Credit Union or any member of its “*Controlled Group*” (defined as any organization which is a member of a controlled group of corporations within the meaning of Section 414 of the Internal Revenue Code of 1986 (the “*Code*”)) that is sponsored, maintained or contributed to by the Credit Union or any member of its Controlled Group and for which the Credit Union or any member of its Controlled Group would have any liability, whether actual or contingent (each, a “*Plan*”) has been maintained in compliance with its terms and with the requirements of all applicable statutes, rules and regulations, including ERISA and the Code; (ii) with respect to each Plan subject to Title IV of ERISA (including, for purposes of this clause (ii), any plan subject to Title IV of ERISA that the Credit Union or any member of its Controlled Group previously maintained or contributed to in the six (6) years prior to the Signing Date), (A) no “reportable event” (within the meaning of Section 4043(c) of ERISA), other than a reportable event for which the notice period referred to in Section 4043(c) of ERISA has been waived, has occurred in the three years prior to the Signing Date or is reasonably expected to occur, (B) no “accumulated funding deficiency” (within the meaning of Section 302 of ERISA or Section 412 of the Code), whether or not waived, has occurred in the three years prior to the Signing Date or is reasonably expected to occur, (C) the fair market value of the assets under each Plan exceeds the present value of all benefits accrued under such Plan (determined based on the assumptions used to fund such Plan) and (D) neither the Credit Union nor any member of its Controlled Group has incurred in the six (6) years prior to the Signing Date, or reasonably expects to incur, any liability under Title IV of ERISA (other than contributions to the Plan or premiums to the Pension Benefit Guaranty Corporation in the ordinary course and without default) with respect to a Plan (including any Plan that is a “multiemployer plan”, within the meaning of Section 4001(c)(3) of ERISA); and (iii) each Plan that is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service with respect to its qualified status that has not been revoked, or such a determination letter has been timely applied for but not received by the Signing Date, and nothing has occurred, whether by action or by failure to act, which could reasonably be expected to cause the loss, revocation or denial of such qualified status or favorable determination letter.

(o) Taxes. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (i) the Credit Union and the Credit Union Subsidiaries have filed all federal, state, local and foreign income and franchise Tax returns (together with any schedules and attached thereto) required to be filed through the Signing Date, subject to permitted extensions, and have paid all Taxes due thereon, (ii) all such Tax returns (together with any schedules and attached thereto) are true, complete and correct in all material respects and were prepared in compliance with all applicable laws and (iii) no Tax deficiency has been determined adversely to the Credit Union or any of the Credit Union Subsidiaries, nor does the Credit Union have any knowledge of any Tax deficiencies.

(p) Properties and Leases. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, the Credit Union and the Credit Union Subsidiaries have good and marketable title to all real properties and all other properties and assets owned by them, in each case free from liens (including, without limitation, liens for Taxes), encumbrances, claims and defects that would affect the value thereof or interfere with the use made

or to be made thereof by them. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, the Credit Union and the Credit Union Subsidiaries hold all leased real or personal property under valid and enforceable leases with no exceptions that would interfere with the use made or to be made thereof by them.

(q) Environmental Liability. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect:

(i) there is no legal, administrative, or other proceeding, claim or action of any nature seeking to impose, or that would reasonably be expected to result in the imposition of, on the Credit Union or any Credit Union Subsidiary, any liability relating to the release of hazardous substances as defined under any local, state or federal environmental statute, regulation or ordinance, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, pending or, to the Credit Union's knowledge, threatened against the Credit Union or any Credit Union Subsidiary;

(ii) to the Credit Union's knowledge, there is no reasonable basis for any such proceeding, claim or action; and

(iii) neither the Credit Union nor any Credit Union Subsidiary is subject to any agreement, order, judgment or decree by or with any court, Governmental Entity or third party imposing any such environmental liability.

(r) Risk Management Instruments. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, all derivative instruments, including, swaps, caps, floors and option agreements, whether entered into for the Credit Union's own account, or for the account of one or more of the Credit Union Subsidiaries or its or their customers, were entered into (i) only in the ordinary course of business, (ii) in accordance with prudent practices and in all material respects with all applicable laws, rules, regulations and regulatory policies and (iii) with counterparties believed to be financially responsible at the time; and each of such instruments constitutes the valid and legally binding obligation of the Credit Union or one of the Credit Union Subsidiaries, enforceable in accordance with its terms, except as may be limited by the Bankruptcy Exceptions. Neither the Credit Union nor the Credit Union Subsidiaries, nor, to the knowledge of the Credit Union, any other party thereto, is in breach of any of its obligations under any such agreement or arrangement other than such breaches that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(s) Agreements with Regulatory Agencies. For the avoidance of doubt, this Section 3.1(s) shall not be deemed to contemplate or require any representation or disclosure including on Schedule F that would involve "confidential supervisory information" or other similar information the disclosure of which is restricted pursuant to laws and regulations to which the Credit Union is subject. Except as set forth on Schedule F, neither the Credit Union nor any Credit Union Subsidiary is subject to any material cease-and-desist or other similar order or enforcement or supervisory action issued by, or is a party to any material written agreement, consent agreement or memorandum of understanding with, or is a party to any commitment letter or similar undertaking to, or is subject to any capital directive by, or since December 31, 2017, has



adopted any board resolutions at the request of, any Governmental Entity that currently restricts in any material respect the conduct of its business or that in any material manner relates to its capital adequacy, its liquidity and funding policies and practices, its ability to pay dividends, its credit, risk management or compliance policies or procedures, its internal controls, its management or its operations or business (each item in this sentence, a “*Regulatory Agreement*”), nor has the Credit Union or any Credit Union Subsidiary been advised since December 31, 2017, by any such Governmental Entity that it is considering issuing, initiating, ordering, or requesting any such Regulatory Agreement. The Credit Union and each Credit Union Subsidiary is in compliance in all material respects with each Regulatory Agreement to which it is party or subject, and neither the Credit Union nor any Credit Union Subsidiary has received any notice from any Governmental Entity indicating that either the Credit Union or any Credit Union Subsidiary is not in compliance in all material respects with any such Regulatory Agreement.

(t) Insurance. The Credit Union and the Credit Union Subsidiaries are insured with reputable insurers against such risks and in such amounts as the management of the Credit Union reasonably has determined to be prudent and consistent with industry practice. The Credit Union and the Credit Union Subsidiaries are in material compliance with their insurance policies and are not in default under any of the material terms thereof, each such policy is outstanding and in full force and effect, all premiums and other payments due under any material policy have been paid, and all claims thereunder have been filed in due and timely fashion, except, in each case, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(u) Intellectual Property. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (i) the Credit Union and each Credit Union Subsidiary owns or otherwise has the right to use, all intellectual property rights, including all trademarks, trade dress, trade names, service marks, domain names, patents, inventions, trade secrets, know-how, works of authorship and copyrights therein, that are used in the conduct of their existing businesses and all rights relating to the plans, design and specifications of any of its branch facilities (“*Proprietary Rights*”), free and clear of all liens and any claims of ownership by current or former employees, contractors, designers or others and (ii) neither the Credit Union nor any of the Credit Union Subsidiaries is materially infringing, diluting, misappropriating or violating, nor has the Credit Union or any of the Credit Union Subsidiaries received any written (or, to the knowledge of the Credit Union, oral) communications alleging that any of them has materially infringed, diluted, misappropriated or violated, any of the Proprietary Rights owned by any other person. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, to the Credit Union’s knowledge, no other person is infringing, diluting, misappropriating or violating, nor has the Credit Union or any or the Credit Union Subsidiaries sent any written communications since December 31, 2019, alleging that any person has infringed, diluted, misappropriated or violated, any of the Proprietary Rights owned by the Credit Union and the Credit Union Subsidiaries.

(v) Brokers and Finders. The Investor has no liability for any amounts that any broker, finder or investment banker is entitled to for any financial advisory, brokerage, finder’s or other fee or commission in connection with this Agreement or the transactions contemplated hereby based upon arrangements made by or on behalf of the Credit Union or any Credit Union Subsidiary.

(w) Disclosure Schedule. The Credit Union has delivered the Disclosure Schedule and, if applicable, the Disclosure Update to the Investor and the information contained in the Disclosure Schedule, as modified by the information contained in the Disclosure Update, if applicable, is true, complete and correct.

(x) Related Party Transactions. Neither the Credit Union nor any Credit Union Subsidiary has made any commercial loan to an ineligible borrower or undertaken any other prohibited activity specified in 12 C.F.R. § 723.7. Except as disclosed on Schedule G, to the Credit Union's knowledge, no director or executive officer of the Credit Union or any Credit Union Subsidiary, holder of five percent (5%) or more of the Credit Union's issued and outstanding Capital Interests, or any of their respective spouses or children or any Affiliate of any of the foregoing (each, a "*Related Party*") has any (i) material commercial, industrial, banking, consulting, legal, accounting, charitable or familial relationship with any vendor or material customer of the Credit Union or any Credit Union Subsidiary that is not on arms-length terms, or (ii) direct or indirect ownership interest in any person or entity with which the Credit Union or any Credit Union Subsidiary has a material business relationship that is not on arms-length terms (not including publicly-traded entities in which such person owns less than two percent (2%) of the outstanding capital stock).

#### ARTICLE IV COVENANTS

Section 4.1 Affirmative Covenants. The Credit Union hereby covenants and agrees with Investor that:

(a) Commercially Reasonable Efforts. Subject to the terms and conditions of this Agreement, each of the parties will use its commercially reasonable efforts in good faith to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or desirable, or advisable under applicable laws, so as to permit consummation of the Purchase as promptly as practicable and otherwise to enable consummation of the transactions contemplated hereby and shall use commercially reasonable efforts to cooperate with the other party to that end.

(b) Certain Notifications Until Closing. From the Signing Date until the Closing, the Credit Union shall promptly notify the Investor of (i) any fact, event or circumstance of which it is aware and which would reasonably be expected to cause any representation or warranty of the Credit Union contained in this Agreement to be untrue or inaccurate in any material respect or to cause any covenant or agreement of the Credit Union contained in this Agreement not to be complied with or satisfied in any material respect and (ii) except as Previously Disclosed, any fact, circumstance, event, change, occurrence, condition or development of which the Credit Union is aware and which, individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect; *provided, however*, that delivery of any notice pursuant to this Section 4.1(b) shall not limit or affect any rights of or remedies available to the Investor.

(c) Access and Information.

(i) The provisions of this Section 4.1(c)(i) shall apply, (x) with respect to the Investor, from the Signing Date until the date when the Investor or one of its Affiliates no

longer owns, directly or indirectly, any Subordinated Debt and (y) with respect to the Inspector General of the Treasury and the Comptroller General of the United States, from and after the Signing Date but, after the date when the Investor or one of its Affiliates no longer owns, directly or indirectly, any Subordinated Debt, only with respect to the period in which the Investor or one of its Affiliates directly or indirectly owned any Subordinated Debt. Subject to the foregoing, and limited solely to information determined by the Investor to be relevant to the Subordinated Debt, the Credit Union will permit, and shall cause each of the Credit Union Subsidiaries to permit, the Investor, the Inspector General of the Treasury and the Comptroller General of the United States and their respective agents, consultants, contractors and advisors to (x) examine any books, papers, records, Tax returns (including all schedules and attachments thereto), data and other information, (y) make copies thereof and (z) discuss the affairs, finances and accounts of the Credit Union and the Credit Union Subsidiaries with the personnel (including the principal officers) of the Credit Union and the Credit Union's Subsidiaries, all upon reasonable notice, *provided*, that:

(A) any examinations and discussions pursuant to this Section 4.1(c)(i) shall be conducted during normal business hours and in such manner as not to interfere unreasonably with the conduct of the business of the Credit Union;

(B) neither the Credit Union nor any Credit Union Subsidiary shall be required by this Section 4.1(c)(i) to disclose any information to the extent (x) prohibited by applicable law or regulation (including laws and regulations relating to the use or disclosure of confidential supervisory information), or (y) that such disclosure would reasonably be expected to cause a violation of any agreement to which the Credit Union or any Credit Union Subsidiary is a party or would cause a risk of a loss of privilege to the Credit Union or any Credit Union Subsidiary (*provided* that the Credit Union shall use commercially reasonable efforts to make appropriate substitute disclosure arrangements under circumstances where the restrictions in this clause (B) apply);

(C) the obligations of the Credit Union and the Credit Union Subsidiaries to disclose information pursuant to this Section 4.1(c)(i) to the Inspector General of the Treasury, the Comptroller General of the United States and their respective agents, consultants, contractors or advisors, shall be subject to the agreement by the Inspector General of the Treasury, the Comptroller General of the United States, as applicable, with respect to documents obtained under this Section 4.1(c)(i), to follow applicable law and regulation (and the applicable customary policies and procedures) regarding the dissemination of confidential materials, including redacting confidential information from the public version of its reports and soliciting the input from the Credit Union as to information that should be afforded confidential treatment, as appropriate; and

(D) for avoidance of doubt, any investigation or discussions pursuant to this Section 4.1(c)(i) may, at the Investor's option, be conducted on site at any office of the Credit Union or any Credit Union Subsidiary.

(ii) Subject to the assignment of the rights under this Section 4.1(c)(ii) pursuant to Section 4.1(c)(iii), from the Signing Date until the date on which all the Subordinated Debt has been redeemed in whole, the Credit Union will deliver, or will cause to be delivered, to the Investor:

(A) as soon as available after the end of each fiscal year of the Credit Union, and in any event within ~~90~~one hundred twenty (120) days thereafter, a consolidated balance sheet of the Credit Union as of the end of such fiscal year, and consolidated statements of income, retained earnings and cash flows of the Credit Union for such year, in each case prepared in accordance with GAAP or RAP, as applicable, and setting forth in each case in comparative form the figures for the previous fiscal year of the Credit Union and which shall be audited to the extent audited financial statements are available;

(B) as soon as available after the end of the first, second and third quarterly periods in each fiscal year of the Credit Union, a copy of any quarterly reports provided to Interest Holders of the Credit Union;

(C) as soon as available after the Credit Union receives any assessment of the Credit Union's internal controls, a copy of such assessment (other than assessments provided by the Appropriate Supervisory Authority that the Credit Union is prohibited by applicable law or regulation from disclosing to the Investor));

(D) as soon as such items become effective, any amendments to the Charter, bylaws or other organizational documents of the Credit Union; and

(E) at the same time as such items are sent to all Members of the Credit Union, copies of any information or documents, excluding any general solicitations or advertisements for services and products, sent by the Credit Union to its Members; *provided, however* that, notwithstanding clauses (A)-(E) of this Section 4.1(c)(ii), this Section 4.1(c)(ii) shall not require the Credit Union to prepare audited financial statements if it does not otherwise prepare audited financial statements and shall not require the Credit Union to submit Call Reports to the Investor.

(iii) The Investor's information rights pursuant to Section 4.1(c)(ii) and the Investor's right to receive certifications from the Credit Union pursuant to ~~Section 4.1(d)(ii)~~Section 4.1(d)(i) may be assigned by the Investor to a transferee or assignee of the Subordinated Debt with a face value of no less than an amount equal to ten percent (10%) of the Purchase Price.

(iv) Nothing in this Section 4.1(c) shall be construed to limit the authority that the Inspector General of the Treasury, the Comptroller General of the United States or any other applicable Governmental Entity has under law.

(v) The Credit Union shall provide to the Investor all such information as the Investor may request from time to time related to the study under Section 525 of Division N of the Consolidated Appropriations Act, 2021 and related studies.

(d) Certifications. Subject to the assignment of the rights under ~~this~~ Section 4.1(d)(i) pursuant to Section 4.1(c)(iii) the Credit Union shall provide the following certifications to the Investor:

(i) Upon delivery of each Supplemental Report, the Credit Union's principal executive officer or principal financial officer (each as defined in the ECIP Interim Final Rule) will certify to the Investor that the information provided on each Supplemental Report is accurate;

(ii) Following the Closing Date, within one hundred twenty (120) days of the end of each fiscal year of the Credit Union during which a Supplemental Report is submitted, the Credit Union will deliver to the Investor (1) a certification by the Credit Union that the processes and controls used to generate the Supplemental Reports are satisfactory and (2) an attestation with respect to the processes and controls used to generate the Supplemental Reports from the Credit Union's independent auditor if the Credit Union is required to include an attestation as to its internal control over financial reporting in connection with the filing of audited financial statements with any Governmental Entity or self-regulatory agency; and

(iii) By December 31 of the calendar year in which the Closing occurs and, thereafter, annually, for so long as required by the ECIP Interim Final Rule, a certification substantially in the form attached hereto as Annex D by two of the Credit Union's Senior Executive Officers (one of which must be the Credit Union's principal executive officer or principal financial officer) (each as defined in the ECIP Interim Final Rule) that the Credit Union is in compliance with each of the excessive compensation, severance pay and excessive or luxury expenditures requirements and limitations on capital distributions set forth in ECIP Interim Final Rule, as published and in effect at the time of the certification; *provided* that without the consent of the Investor, the date of such annual certifications shall not be later than nor more than 30 days earlier than the anniversary date for the first annual certification following the Closing.

The Credit Union shall immediately notify the Investor upon the occurrence of any breach of any of the covenants set forth in this Section 4.1(d).

(e) Compensation Matters.

(i) Restrictions on compensation and severance payments. During the ECIP Period, the Credit Union shall comply, and take all necessary action to ensure that any Credit Union Subsidiary complies, in all respects with the requirements set forth in the ECIP Interim Final Rule regarding restrictions on executive compensation and severance payments, and any material changes to the policies and procedures related thereto.

(ii) Excessive or luxury expenditures. Within ninety (90) days of the Closing Date, the Board of Directors shall adopt an excessive or luxury expenditures policy,

provide such policy to the Investor and the NCUA, and post the text of such policy on its Internet website, if the Credit Union maintains an Internet website. The Credit Union shall comply, and take all necessary action to ensure that any Credit Union Subsidiary complies, in all respects with the requirements set forth in the ECIP Interim Final Rule regarding restrictions on excessive or luxury expenditures, and any material changes to the excessive or luxury expenditures policy adopted by the Board of Directors.

(f) Capital Distributions. During the ECIP Period, the Credit Union shall comply with each of the restrictions on capital distributions (as defined in 31 C.F.R. § 35.21) applicable to it as set forth in the ECIP Interim Final Rule.

(g) Payment of Principal and Interest. The Credit Union covenants and agrees for the benefit of the Holders of the Subordinated Debt that it will duly and punctually pay or cause to be paid the principal of and interest on the Subordinated Debt at the respective times and in the manner provided herein and in the Subordinated Debt. Payment of the principal of and interest on the Subordinated Debt due on the Maturity Date will be made by the Credit Union in immediately available funds against presentation and surrender of the Subordinated Debt. Subject to the terms of the Subordinated Debt, each installment of interest on the Subordinated Debt due on an Interest Payment Date other than the Maturity Date shall be paid by wire transfer of immediately available funds to any account with a banking institution located in the United States designated by such Holder no later than the related Regular Record Date. Under certain net worth classifications of the Credit Union (see 12 C.F.R. §§ 702.109(b)(11) and 702.204(b)) the Credit Union may be prohibited by the National Credit Union Administration from making payments on the Subordinated Debt, in which case unpaid interest will continue to accrue under the terms hereof and thereof to the extent permitted by law.

(h) Qualified Lending Reports.

(i) Following the Closing Date, for the period through the earlier of (x) the date on which the Subordinated Debt is redeemed in whole and (y) ~~the~~ the end of the period during which the interest rate applicable to the Subordinated Debt adjusts based on the Supplemental Reports, the Credit Union shall submit to the Investor a report in a form substantially similar to that posted on Investor's ECIP website (the "*Quarterly Supplemental Report*"), in accordance with the submission instructions set forth in such Quarterly Supplemental Report concurrently with the submission of the Credit Union's Call Report for the quarter covered by the Quarterly Supplemental Report, setting forth an updated calculation of (i) the amount of Qualified Lending as of the applicable quarter end date and (ii) as applicable, the difference between the Baseline and such updated amount of Qualified Lending;

(ii) If any Initial Supplemental Report or Quarterly Supplemental Report is inaccurate, the Investor shall be entitled to recover from the Credit Union, upon demand, the amount of any difference between (x) the amount of the interest payment(s) actually made to the Investor based on such inaccurate report and (y) the correct amount of the interest payment(s) that should have been made, but for such inaccuracy; *provided*, that to the extent such inaccuracy resulted in an overpayment of interest, the Investor shall not have any obligation to return to or otherwise reimburse the Credit Union for such excess

interest payment. The Credit Union shall provide the Investor with a written description of any such inaccuracy within three (3) business days after the Credit Union's discovery thereof;

(iii) If the Investor determines that the Initial Supplemental Report or any Quarterly Supplemental Report is inaccurate, the Investor may require the Credit Union to restate the Initial Supplemental Report or any applicable Quarterly Supplemental Report, and (i) the "Baseline Qualified Lending" on such restated Initial Supplemental Report shall become the Baseline or (ii) the Qualified Lending on such restated Quarterly Supplemental Report shall become the Qualified Lending, as applicable;

(iv) If the Investor transfers the Subordinated Debt, then any amounts payable in respect of Subordinated Debt that have been transferred shall, if and as directed by the Investor, be paid to the transferee of the Subordinated Debt;

(v) The Investor shall have the right from time to time to modify the Quarterly Supplemental Report, by posting an amended and restated version of the Quarterly Supplemental Report on its website, to conform the Quarterly Supplemental Report to (A) reflect changes in GAAP, (B) reflect changes in the form or content of, or definitions used in, Call Reports or any other applicable reporting form or (C) to make clarifications, technical corrections and/or any other adjustments as the Investor determines to be necessary or appropriate. Notwithstanding anything herein to the contrary, upon posting by the Investor on its website, the Quarterly Supplemental Report shall be deemed to be amended and restated as so posted, without the need for any further act on the part of any person or entity. If any such modification includes a change to the caption or number of any line item of the Quarterly Supplemental Report, any reference herein to such line item shall thereafter be a reference to such re-captioned or renumbered line item;

(vi) The Credit Union's financial records shall be maintained in such a manner and scope so as to ensure that the Initial Supplemental Report and Quarterly Supplemental Reports can be prepared and filed in accordance with the instructions thereto and will reflect a fair presentation of the Credit Union's, and its Affiliates' as applicable, Qualified Lending and Deep Impact Lending, as defined in such Supplemental Report; and

(vii) The Credit Union shall maintain in its files a signed and attested record of its completed Initial Supplemental Report, any Quarterly Supplemental Reports, any amended reports, and the methodology used to generate the data in the Initial Supplemental Report and Quarterly Supplemental Reports, for five (5) years after the report date, unless any applicable state requirements mandate a longer retention period.

(h)(i) Nonpayment of Interest. Whenever interest payable on the Subordinated Debt will not be paid in full for any Interest Period (as defined in the Subordinated Debt), including nonpayment because interest will be deferred pursuant to the applicable provisions of this Agreement and the Subordinated Security, then no later than three (3) business days prior to the applicable Interest Payment Date (as defined in the Subordinated Debt) the principal executive officer and principal financial officer of the Credit Union shall provide written notice, in a form reasonably satisfactory to the Investor, informing the Investor that the Credit Union will not make

the applicable interest payment and providing the rationale of the Credit Union for not making such interest payment.

~~(j)~~(i) Compliance with Federal Law. The Credit Union shall comply with, and hereby assures that it will comply with, all applicable federal statutes and regulations relating to nondiscrimination including: (i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), including Treasury’s implementing regulations at 31 C.F.R. Part 22; (ii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and (iii) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), including Treasury’s implementing regulations at 31 C.F.R. Part 23 and the general age discrimination regulations at 45 C.F.R. Part 90.

~~(j)~~(k) Transactions with Affiliates. Until such time as the Investor or one of its Affiliates, directly or indirectly, ceases to own any Subordinated Debt, the Credit Union shall enter into transactions with Affiliates or related persons (within the meaning of Item 404 under the SEC’s Regulation S-K) only if (A) such transactions are on terms no less favorable to the Credit Union and the Credit Union Subsidiaries than could be obtained from an unaffiliated third party, and (B) have been approved by the audit committee of the Board of Directors or comparable body of independent directors of the Credit Union, or if there are no independent directors, the Board of Directors, *provided* that the Board of Directors shall maintain written documentation which supports its determination that the transaction meets the requirements of clause (A) of this Section 4.1(k).

~~(k)~~(l) Outreach Plan. The Credit Union shall provide community outreach and communication, where appropriate, describing the availability and application process of receiving loans made possible by the ECIP through organizations, trade associations, and individuals that represent or work within or are members of minority communities.

Section 4.2 Negative Covenants. The Credit Union hereby covenants and agrees with the Investor that:

(a) Certain Transactions. The Credit Union shall not merge or consolidate with, or sell, transfer or lease all or substantially all of its property or assets to, any other party unless the successor, transferee or lessee party (or its ultimate parent entity), as the case may be (if not the Credit Union), expressly assumes the due and punctual performance and observance of each and every covenant, agreement and condition of this Agreement and the Subordinated Debt to be performed and observed by the Credit Union, including the due and punctual payment of the principal of and interest on the Subordinated Debt and, if applicable, the issuance by the successor party of an instrument equivalent to the Subordinated Debt; *provided, however*, that in the event of a merger or voluntary dissolution of a low-income designated Credit Union (other than a merger with and into another low-income designated Credit Union), the Secondary Capital Account shall be closed and paid out in accordance with 12 C.F.R. § 702.414 (or any successor provision); and *provided, further*, that if such merger is with and into another low-income designated Credit Union, such surviving Credit Union will execute and deliver to Investor a Disclosure and Acknowledgment in the form attached as Annex E with respect to the Subordinated Debt prior to the consummation of any such merger. Any such successor entity must also qualify at the time of the transaction as an Eligible Financial Institution unless either prior written approval of the



Investor is obtained or the Credit Union is subject to an emergency merger pursuant to 12 C.F.R. Part 701, Appendix B (or any successor provision).

(b) CDFI and MDI Status. If the Credit Union is a CDFI as of the Signing Date, the Credit Union shall not revoke ~~or change~~ its status as a CDFI, ~~or permit~~ and shall use its reasonable best efforts to prevent its status as a CDFI ~~to be from being~~ changed, within the meaning of 12 U.S.C. § 4702 and in accordance with 12 C.F.R. § 1805.201. If the Credit Union is an MDI as of the Signing Date, the Credit Union shall not revoke its designation as an MDI and shall use its reasonable best efforts to maintain its designation as an MDI.

(c) Restriction on Dividends and Repurchases. For so long as any Subordinated Debt is outstanding, (A) no Extraordinary Dividends may be declared or paid by the Credit Union on any Capital Interests it is authorized to issue under applicable law, nor may any discretionary payments be made on any other securities or instruments that are *pari passu* with or junior to the Subordinated Debt with respect to interest payments or ranking in liquidation, unless all accrued and unpaid interest for all past Interest Periods on the Subordinated Debt has been paid in full, and no deferred amounts are unpaid, and (B) the Credit Union may not repurchase or redeem any Capital Interests, or any securities or instruments ranking *pari passu* with or junior to the Subordinated Debt (other than in the case of redemptions of membership share interests upon the voluntary or involuntary termination of membership by the Credit Union or its members, as applicable), unless all accrued and unpaid interest for all past Interest Periods on the Subordinated Debt has been paid in full, and no deferred amounts are unpaid. For the avoidance of doubt, the foregoing contractual restrictions shall not restrict the Credit Union from making required, non-discretionary payments on Capital Interests it has issued, such as payments at stated maturity in accordance with an instrument's terms or payments of interest that may not be deferred, and the foregoing contractual restrictions and clarification shall not supersede otherwise applicable limitations or determinations with respect to distributions or payments pursuant to the rules or regulations of any Appropriate Supervisory Authority.

## **ARTICLE V REMEDIES OF THE HOLDERS UPON EVENT OF DEFAULT AND OTHER BREACHES OR DEFAULTS**

Section 5.1 Event of Default. “*Event of Default*” shall mean the occurrence or existence of any one or more of the following: (a) the placement of the Credit Union into liquidation, (b) the consent of the Credit Union to the appointment of a receiver, liquidating agent or other similar official (other than a conservator) of the Credit Union for any substantial part of its property, or (c) the appointment of a receiver, liquidating agent or other similar official (other than a conservator) of the Credit Union for any substantial part of its property. A default in the payment of principal of, premium, if any, or interest on, the Subordinated Debt or in the performance of any other obligation of the Credit Union hereunder or under the Subordinated Debt shall not constitute an Event of Default or result in a right of acceleration.

Section 5.2 Acceleration and Other Remedies. When any Event of Default has occurred and is continuing, then principal and interest, and all fees, charges and other obligations payable hereunder and under the Transaction Documents, shall immediately become due and payable without presentment, demand, protest or notice of any kind. In addition, the Holders may exercise

any and all remedies available to them under the Transaction Documents or applicable law. For the avoidance of doubt, in the event the Credit Union is subject to receivership or liquidation under 12 U.S.C. § 1787 and the NCUA Regulations in 12 C.F.R. Part 709 (or any successor provisions) (i) accrual of interest on the Subordinated Debt after commencement of the liquidation or receivership proceedings, and (ii) the payment of principal and interest on the Subordinated Debt, will be determined in accordance with 12 U.S.C. § 1787 and the NCUA Regulations in 12 C.F.R. Part 709 (or any successor provisions).

Section 5.3 Suits for Enforcement. In case any one or more Events of Default shall have occurred and be continuing, any Holder, subject to the terms of Article VI hereof, may proceed to protect and enforce its rights under this Article V by suit in equity or action at law. In the event of the failure by the Credit Union to make payment of principal of or interest on the Subordinated Debt (and, in the case of payment of interest, such failure to pay shall have continued for two (2) business days), the Credit Union will, upon written demand of any Holder, pay to such Holder the whole amount then due and payable (without acceleration) on such Holder's Subordinated Debt, with interest on the overdue amount at the rate borne by the Subordinated Debt to the extent such interest is legally enforceable. Such demand shall not serve to accelerate the Holder's Subordinated Debt. If the Credit Union fails to pay such amount upon such demand, the Holder may among other things, institute a judicial proceeding for the collection of such amount. It is agreed that in the event of such action, or any action between a Holder of the Subordinated Debt and the Credit Union (including its officers and agents) in connection with a breach or enforcement of this Agreement, the Holder of the Subordinated Debt shall be entitled to receive all reasonable fees, costs and expenses incurred, including without limitation such reasonable fees and expenses of attorneys (whether or not litigation is commenced) and reasonable fees, costs and expenses of appeals.

Section 5.4 Holdings May File Proofs of Claim. In case there shall be pending receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other administrative or judicial proceeding relative to the Credit Union or the property of the Credit Union, any Holder, irrespective of whether the principal of the Subordinated Debt shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether any such Holder shall have made any demand pursuant to the provisions of this Section 5.4, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal and interest owing and unpaid in respect of the Subordinated Debt held by any such Holder and, in case of any administrative or judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of any such Holder allowed in such administrative or judicial proceedings relative to the Credit Union, or to the creditors or property of the Credit Union, unless prohibited by applicable law and regulations, to vote in any election of a trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency proceedings or person performing similar functions in comparable proceedings, and to collect and receive any moneys or other property payable or deliverable to any such Holder on any such claims.

Section 5.5 Waiver of Past Defaults. ~~The Holders of not less than a majority in aggregate principal amount of the outstanding Subordinated Debt~~The Majority Holders may on behalf of the Holders of all the Subordinated Debt waive any past default hereunder with respect

to such Subordinated Debt and its consequences, except a default in the payment of principal or interest. Upon any such waiver, such default shall cease to exist, for every purpose of this Agreement except Section 5.6 through Section 5.8; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon or for any purpose to Section 5.6 through Section 5.8. This Section 5.5 shall apply only to the rights of the Holders in their capacity as such and, notwithstanding anything to the contrary in the preceding sentences of this Section 5.5, any waiver pursuant to this Section 5.5 shall not extend to the rights, remedies or consequences set forth in Section 5.6 through Section 5.8.

Section 5.6 Rate Reductions in the Event of Breaches and Violations. If Treasury determines, in its sole discretion, that the Credit Union has breached, violated or defaulted under (i) any covenant, agreement or obligation of the Credit Union included in this Agreement or the Subordinated Debt ~~or~~, (ii) Section 104A of the Community Development Banking Act, or the ECIP Interim Final Rule, or (iii) any additional rules or regulations established in connection with ECIP that further the purposes of Section 104A of the Community Development Banking Act, Treasury may, in its sole discretion, determine that the Credit Union shall not be eligible for any rate reduction with respect to the Subordinated Debt for such period as Treasury, in its sole discretion, shall determine. Any such determination shall cause the applicable interest rate of the Subordinated Debt to reset as specified in the Subordinated Security. Treasury shall provide notice to the Credit Union of any determination with respect to the Credit Union's disqualification from eligibility for rate reductions or the termination of any such disqualification; *provided*, that any failure by Treasury to provide notice of any such determination or defect in such notice or the transmission thereof shall not affect or prejudice Treasury's rights or remedies under this Section 5.6 or the Subordinated Debt. Notwithstanding the foregoing, a default in the payment of interest shall not be subject to this Section 5.6.

Section 5.7 Credit Union ~~Nonecompliance~~Breach, Violation or Default.

(a) If Treasury determines, in its sole discretion, ~~an instance of noncompliance by that~~ the Credit Union or an Affiliate of the Credit Union ~~with has breached, violated or defaulted under~~ (i) any ~~term or condition of covenant, agreement or obligation of the Credit Union or an Affiliate of the Credit Union included in~~ this Agreement or the Subordinated Debt ~~or~~, (ii) Section 104A of the Community Development Banking Act, or the ECIP Interim Final Rule, or (iii) any additional rules or regulations established in connection with ECIP, ~~has occurred~~ that further the purposes of Section 104A of the Community Development Banking Act, Treasury may, in its sole discretion, report such ~~noncompliance~~ breach, violation or default to the CDFI Fund or other entities within or affiliated with Treasury. The Credit Union acknowledges ~~and agrees~~ that any such report of ~~noncompliance~~ breach, violation or default may result in the Credit Union becoming ineligible for awards or programs offered by the CDFI Fund or other entities within or affiliated with Treasury at that time or in the future in accordance with the terms and conditions of such awards or programs offered by the CDFI Fund or other entities within or affiliated with Treasury.

(b) The restrictions on, and notice requirement with respect to, the transferability of the Subordinated Debt set forth in Section 6.6(f)(v) shall cease to apply if Treasury determines, in its sole discretion, ~~an instance of noncompliance by that~~ the Credit Union or an Affiliate of the Credit Union has ~~occurred with respect to~~ breached, violated or defaulted under (i) any ~~term or condition of covenant, agreement or obligation of the Credit Union or an Affiliate of the Credit Union~~

included in this Agreement or the Subordinated Debt ~~or~~, (ii) Section 104A of the Community Development Banking Act, ~~or~~ the ECIP Interim Final Rule, or (iii) any additional rules or regulations established in connection with ECIP that further the purposes of Section 104A of the Community Development Banking Act.

Section 5.8 Additional Remedies.

(a) If Treasury determines, in its sole discretion, that ~~an instance of noncompliance by~~ the Credit Union or an Affiliate of the Credit Union ~~with~~has breached, violated or defaulted under (i) ~~the terms and conditions of any covenant, agreement or obligation of the Credit Union or an Affiliate of the Credit Union included in~~ this Agreement or the Subordinated Debt ~~or~~, (ii) Section 104A of the Community Development Banking Act, ~~or~~ the ECIP Interim Final Rule, or (iii) any additional rules or regulations established in connection with ECIP, ~~has occurred that~~ further the purposes of Section 104A of the Community Development Banking Act, Treasury may propose a remedy that Treasury determines, in its sole discretion, is proportional to the breach, violation or default. If Treasury makes such a determination and proposes a remedy under this Section 5.8(a), Treasury shall notify the Credit Union in writing of its proposed determination of ~~noncompliance~~a breach, violation or default, provide an explanation of the nature of the ~~noncompliance~~breach, violation or default, and specify ~~at~~the proposed remedy. Upon receipt of such notice, the Credit Union shall, within seven (7) days, accept Treasury's proposed remedy, propose an alternative remedy, or provide information and documentation contesting Treasury's proposed determination. Treasury shall consider any such submission by the Credit Union and make a final written determination, which will state Treasury's findings regarding ~~noncompliance~~the breach, violation or default and the remedy to be imposed.

(b) If Treasury makes a final determination under Section 5.8(a) that ~~an instance of noncompliance~~a breach, violation or default has occurred, Treasury may, in its sole discretion, require additional reporting or monitoring; initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180; or take any such other action as Treasury, in its sole discretion, deems appropriate and determines, in its sole discretion, to be proportional to the breach, violation or default; provided, however, that Treasury shall not require acceleration of the interest or principal on the Subordinated as a remedy under this Section 5.8 and such acceleration shall be governed exclusively by Section 5.2.

(c) Treasury may make a final determination regarding ~~noncompliance~~a breach, violation or default without regard to Section 5.8(a) if Treasury determines, in its sole discretion, that such determination is necessary to protect a material interest of the federal government. In such event, Treasury shall notify the Credit Union of the remedy that Treasury, in its sole discretion, shall impose, after which the Credit Union may contest Treasury's final determination or propose an alternative remedy in writing to Treasury. Following the receipt of such a submission by the Credit Union, Treasury may, in its sole discretion, maintain or alter its final determination.

~~(d) Any final determination of noncompliance and any final determination to take any remedial action described herein shall not be subject to further review. To the extent permitted by law, the Credit Union waives any right to judicial review of any such determinations and further agrees not to assert in any court any claim arising from or relating to any such determination or remedial action.~~

~~(e)~~(d) Instead of, or in addition to, the remedies listed above, Treasury may refer any ~~noncompliancebreach, violation or default~~ or any allegations of fraud, waste, or abuse to the Inspector General of the Treasury.

~~(f)~~(e) Notwithstanding the foregoing, a default in the payment of interest shall not be subject to this Section 5.8.

## **ARTICLE VI ADDITIONAL AGREEMENTS**

Section 6.1 Purchase for Investment. The Investor acknowledges that the Subordinated Debt has not been registered under the Securities Act, or under any state securities laws. The Investor acknowledges that the Subordinated Debt is not being sold pursuant to an indenture (an “*Indenture*”) qualified under the Trust Indenture Act of 1939 (the “*Indenture Act*”). The Investor (a) is acquiring the Subordinated Debt pursuant to an exemption from registration under the Securities Act and an exemption from qualification of an indenture under the Indenture Act, and is acquiring the Subordinated Debt solely for investment with no present intention to distribute the Subordinated Debt to any person in violation of the Securities Act or any applicable U.S. state securities laws, (b) will not sell or otherwise dispose of any of the Subordinated Debt, except in compliance with the registration requirements or exemption provisions of the Securities Act and any applicable U.S. state securities laws, and (c) has such knowledge and experience in financial and business matters and in investments of this type that it is capable of evaluating the merits and risks of the Purchase and of making an informed investment decision.

Section 6.2 Form of Subordinated Security. The Subordinated Security shall be substantially in the form of Annex A hereto, the terms of which are incorporated in and made a part of this Agreement. The Subordinated Debt shall be issued, and may be transferred, only in denominations having an aggregate principal amount of not less than \$1,000 and integral multiples of \$1,000 in excess thereof. The Subordinated Debt shall be in registered form without coupons and shall be numbered, lettered or otherwise distinguished in such manner or in accordance with such plans as the officers executing the same may determine as evidenced by the execution thereof.

Section 6.3 Execution of Subordinated Debt. The Subordinated Debt shall be executed in the name and on behalf of the Credit Union by the manual or facsimile signature of its President, Chief Executive Officer, Chief Financial Officer or one of its Executive Vice Presidents under its seal (if legally required) which may be affixed thereto or printed, engraved or otherwise reproduced thereon, by facsimile or otherwise, and which need not be attested, unless otherwise required by the Credit Union’s Charter or bylaws or applicable law. Every Subordinated Security shall be dated the date of its issuance and delivery.

### Section 6.4 Computation of Interest.

(a) The amount of interest payable for any Interest Period will be computed as provided in the Subordinated Debt.

(b) Each Subordinated Security will bear interest at the Applicable Interest Rate set forth in Section 2(a) of the face of the Subordinated Security attached hereto as Annex A for the Interest Period on the principal thereof, on any overdue principal and (to the extent that payment

of such interest is enforceable under applicable law) on any overdue installment of interest (including Defaulted Interest but excluding, for the avoidance of doubt, any interest installment the payment of which has been deferred pursuant to Section 6.14), payable on each Interest Payment Date or the Maturity Date, as the case may be. Interest on any Subordinated Security that is payable, and is punctually paid or duly provided for by the Credit Union, on any Interest Payment Date shall be paid to the person in whose name such Subordinated Security is registered at the close of business on the Regular Record Date for such interest installment.

(c) (i) Any interest on the Subordinated Security that is payable, but is not punctually paid or duly provided for by the Credit Union, on any Interest Payment Date (herein called “*Defaulted Interest*”) shall forthwith cease to be payable to the Holder on the relevant Regular Record Date, and such Defaulted Interest shall be paid by the Credit Union on either the next succeeding Interest Payment Date or another date specified by the Credit Union to the persons in whose names such Subordinated Debt is registered at the close of business on either (x), if such Defaulted Interest is to be paid on the next succeeding Interest Payment Date, the related Regular Record Date, or (y), if such Defaulted Interest is to be paid on any other date, a special record date for the payment of such Defaulted Interest. To the extent any Defaulted Interest is paid by the Credit Union, the Credit Union shall notify the Holder in writing of the amount of Defaulted Interest proposed to be paid on each such Subordinated Security and the date of the proposed payment.

(ii) To the extent that Defaulted Interest is to be paid on a date other than on an Interest Payment Date, the Board of Directors shall fix a special record date for the payment of such Defaulted Interest, which shall not be more than fifteen (15) nor less than ten (10) days prior to the date of the proposed payment. The Credit Union shall cause notice of the proposed payment of such Defaulted Interest and the special record date therefor to be mailed, first class postage prepaid, to each Holder of a Subordinated Security at his, her or its address as it appears in the Subordinated Securities Register, not less than ten (10) days prior to such special record date. Notice of the proposed payment of such Defaulted Interest and the special record date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the person in whose name such Subordinated Security is registered at the close of business on such special record date and thereafter the Credit Union shall have no further payment obligation in respect of the Defaulted Interest.

(d) The Credit Union may make payment of any Defaulted Interest on the Subordinated Debt in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Subordinated Debt may be listed, and upon such notice as may be required by such exchange.

Subject to the foregoing provisions of this Section 6.4, each Subordinated Security delivered under this Agreement upon registration of transfer of or in exchange for or in lieu of any other Subordinated Security shall carry the rights to interest accrued and unpaid, and to accrue, that were carried by such other Subordinated Security.

Section 6.5 Legends.

(a) The Investor agrees that all certificates or other instruments representing the Subordinated Debt will bear a legend substantially to the following effect:

“THIS SUBORDINATED SECURITY WILL BE ISSUED AND MAY BE TRANSFERRED ONLY IN DENOMINATIONS OF A MINIMUM OF \$1,000 AND MULTIPLES OF \$1,000 IN EXCESS THEREOF. ANY ATTEMPTED TRANSFER OF SUCH SECURITIES IN A DENOMINATION OF LESS THAN \$1,000 OR IN A DENOMINATION OTHER THAN IN A MULTIPLE OF \$1,000 IN EXCESS THEREOF SHALL BE DEEMED TO BE VOID AND OF NO LEGAL EFFECT WHATSOEVER. ANY SUCH PURPORTED TRANSFEREE SHALL BE DEEMED NOT TO BE THE HOLDER OF SUCH SECURITIES FOR ANY PURPOSE, INCLUDING, BUT NOT LIMITED TO, THE RECEIPT OF PAYMENTS ON SUCH SECURITIES, AND SUCH PURPORTED TRANSFEREE SHALL BE DEEMED TO HAVE NO INTEREST WHATSOEVER IN SUCH SECURITIES.

THIS SECURITY IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE LETTER AGREEMENT BY AND BETWEEN THE CREDIT UNION AND THE UNITED STATES DEPARTMENT OF THE TREASURY AND SECURITIES PURCHASE AGREEMENT – STANDARD TERMS (THE “*AGREEMENT*”), EACH OF WHICH ARE INCORPORATED INTO THIS SUBORDINATED SECURITY.

THIS SECURITY IS *NOT* A SAVINGS ACCOUNT, SHARE ACCOUNT OR DEPOSIT AND IT IS *NOT* INSURED BY THE UNITED STATES, ANY AGENCY OR FUND OF THE UNITED STATES OR THE NATIONAL CREDIT UNION SHARE INSURANCE FUND.

THIS OBLIGATION IS SUBORDINATED AND JUNIOR IN RIGHT OF PAYMENT, AS TO PRINCIPAL, INTEREST AND PREMIUM, TO ALL CLAIMS AGAINST THE CREDIT UNION HAVING THE SAME PRIORITY AS SHAREHOLDERS, THE NATIONAL CREDIT UNION SHARE INSURANCE FUND OR ANY HIGHER PRIORITY, INCLUDING GENERAL AND SECURED CREDITORS OF THE CREDIT UNION. THIS OBLIGATION IS NOT SECURED BY THE CREDIT UNION’S ASSETS OR THE ASSETS OF ANY OF ITS AFFILIATES. THIS OBLIGATION IS NOT ELIGIBLE AS COLLATERAL FOR ANY LOAN BY THE CREDIT UNION.

THE TERMS UNDER WHICH THE CREDIT UNION MAY PREPAY THIS SUBORDINATED SECURITY ARE SET FORTH IN THE AGREEMENT.

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “*SECURITIES ACT*”), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT WHILE A REGISTRATION

STATEMENT RELATING THERETO IS IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS.

SOLELY WITH RESPECT TO SECURITIES NOT ISSUED PURSUANT TO THE EXEMPTION UNDER SECTION 3(a)(5) OF THE SECURITIES ACT: EACH PURCHASER OF THE SECURITIES REPRESENTED BY THIS INSTRUMENT IS NOTIFIED THAT THE ISSUER MAY BE RELYING ON THE EXEMPTION FROM SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. ANY TRANSFEREE OF THE SECURITIES REPRESENTED BY THIS INSTRUMENT BY ITS ACCEPTANCE HEREOF (1) REPRESENTS THAT IT IS A “QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT), (2) AGREES THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THE SECURITIES REPRESENTED BY THIS INSTRUMENT EXCEPT (A) PURSUANT TO A REGISTRATION STATEMENT WHICH IS THEN EFFECTIVE UNDER THE SECURITIES ACT, (B) FOR SO LONG AS THE SECURITIES REPRESENTED BY THIS INSTRUMENT ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, TO A PERSON IT REASONABLY BELIEVES IS A “QUALIFIED INSTITUTIONAL BUYER” AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (C) TO THE CREDIT UNION OR (D) PURSUANT TO ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THE SECURITIES REPRESENTED BY THIS INSTRUMENT ARE TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND.

THIS INSTRUMENT IS ISSUED SUBJECT TO THE RESTRICTIONS ON TRANSFER AND OTHER PROVISIONS OF THE AGREEMENT BETWEEN THE CREDIT UNION AND THE INVESTOR REFERRED TO THEREIN, A COPY OF WHICH IS ON FILE WITH THE CREDIT UNION. THE SECURITY REPRESENTED BY THIS INSTRUMENT MAY NOT BE SOLD OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE WITH SAID AGREEMENT. ANY SALE OR OTHER TRANSFER NOT IN COMPLIANCE WITH SAID AGREEMENT WILL BE VOID.”

(b) If the Letter Agreement specifies that the offer and sale of the Subordinated Debt is exempt from registration pursuant to Section 4(a)(2) of the Securities Act, in the event that any Subordinated Debt (i)(A) ~~become~~becomes registered under the Securities Act or (B) ~~are~~is eligible to be transferred without restriction in accordance with Rule 144 or another exemption from registration under the Securities Act (other than Rule 144A), and (ii)(A) ~~become~~becomes subject to an Indenture qualified under the Indenture Act or (B) ~~are~~is exempt from qualification under the Indenture Act, the Credit Union shall issue new certificates or other instruments representing such



Subordinated Debt, which shall not contain the applicable legends in Section 6.5(a) above; *provided* that the Investor surrenders to the Credit Union the previously issued certificates or other instruments.

Section 6.6 Transfer of Subordinated Debt.

(a) The Credit Union or its duly appointed agent shall maintain a register (the “*Subordinated Securities Register*”) for the Subordinated Debt in which it shall register the issuance and transfer of the Subordinated Debt. All transfers of the Subordinated Debt shall be recorded on the Subordinated Securities Register maintained by the Credit Union or its agent, and the Credit Union shall be entitled to regard the registered Holder of such Subordinated Security as the actual owner of the Subordinated Security so registered until the Credit Union or its agent is required to record a transfer of such Subordinated Security on its Subordinated Securities Register. The Credit Union or its agent shall, subject to applicable securities laws, be required to record any such transfer when it receives the Subordinated Security to be transferred duly and properly endorsed by the registered Holder or by its attorney duly authorized in writing.

(b) The Credit Union shall at any time, upon written request of the Holder of Subordinated Security and surrender of the Subordinated Security for such purpose, at the expense of the Credit Union, issue new Subordinated Debt in exchange therefor in such denominations of at least \$1,000, as shall be specified by the Holder of such Subordinated Security, in an aggregate principal amount equal to the then unpaid principal amount of the Subordinated Debt surrendered and substantially in the form of Annex A, with appropriate insertions and variations, and bearing interest from the date to which interest has been paid on the Subordinated Security surrendered. All Subordinated Debt issued upon any registration of transfer of exchange pursuant to this Section 6.6(b) shall be valid obligations of the Credit Union, evidencing the same debt, and entitled to the same benefits under this Agreement, as the Subordinated Debt surrendered upon such registration of transfer or exchange.

(c) All Subordinated Debt presented for registration of transfer or for exchange or payment shall be duly endorsed by, or be accompanied by, a written instrument or instruments of transfer in a form satisfactory to the Credit Union duly executed by the Holder or such Holder’s attorney duly authorized in writing.

(d) No service charge shall be incurred for any exchange or registration of transfer of Subordinated Debt, but the Credit Union may require payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in connection therewith.

(e) Prior to due presentment for the registration of a transfer of any Subordinated Security, the Credit Union and any agent of the Credit Union may deem and treat the person in whose name such Subordinated Security is registered as the absolute owner and Holder of such Subordinated Security for the purpose of receiving payment of principal of and interest on such Subordinated Security and none of the Credit Union or any agents of the Credit Union shall be affected by notice to the contrary.

(f) Subject to compliance with applicable law, the Investor (and any investment vehicles established and used by the Investor to purchase, hold, and sell Subordinated Debt) shall

be permitted to transfer, sell, assign or otherwise dispose of (“*Transfer*”) all or a portion of the Subordinated Debt at any time and from time to time, and the Credit Union shall take all steps as may be reasonably requested by the Investor to facilitate the sale of the Subordinated Debt, including as set forth in Section 6.5; *provided that*:

(i) The Investor shall not sell any Subordinated Debt if such Transfer would require the Credit Union to be subject to the periodic reporting requirements of Section 13 or 15(d) of the Exchange Act and the Credit Union was not already subject to such requirements;

(ii) Prior to the sale of all or a portion of the Subordinated Debt by the Investor to a third party, the Investor shall deliver to the Credit Union a notice (“*ROFR Notice*”) setting forth the aggregate principal amount of Subordinated Debt proposed to be sold (the “*Offered Securities*”) and the cash purchase price thereof (which shall reflect a valuation of the Subordinated Debt by an independent third party) (the “*Offer Price*”) and other terms and conditions on which the Investor proposes to sell the Offered Securities. Within ten (10) days from the date the Investor delivers the ROFR Notice to the Credit Union (the “*Review Period*”), the Credit Union shall deliver to the Investor a written notice (a “*Response Notice*”) stating whether it elects to purchase all the Offered Securities and irrevocably offering to purchase such number of Offered Securities on the terms contained in the ROFR Notice, which purchase shall, as applicable, be conditional upon receipt of prior approval from the Credit Union’s Appropriate Supervisory Authority. If the Credit Union does not deliver a Response Notice in accordance with this Section 6.6(f) prior to the expiration of the Review Period, then the Credit Union will be deemed to have elected not to exercise the right of first refusal specified in the ROFR Notice and the Investor shall be free to sell the Offered Securities to a third party on the terms reflected in the ROFR Notice;

(iii) The Investor shall not sell more than twenty-five percent (25%) of the outstanding Capital Interests to a single third party without the Credit Union’s consent, which may not be unreasonably delayed, conditioned or withheld;

(iv) With the prior consent of the Credit Union (which may not be unreasonably delayed, conditioned or withheld), the Investor may Transfer all or a portion of the Subordinated Debt for no consideration or for a *de minimis* amount to a mission-aligned nonprofit Affiliate of an Eligible Financial Institution participating in the ECIP that is an Insured CDFI (an “*Eligible Nonprofit*”); and

(v) Subject to Section 5.7(b), the Investor shall not sell the Subordinated Debt to a third party (other than to an Eligible Nonprofit) prior to the Tenth Anniversary (as defined in the Subordinated Security) without the prior consent of the Credit Union (which may not be unreasonably delayed, conditioned or withheld). In addition, subject to Section 5.7(b), the Investor shall provide the Credit Union eighteen (18) months’ advance notice of the Investor’s intent to Transfer the Subordinated Debt to a third party other than an Eligible Nonprofit.

(g) In furtherance of the foregoing, the Credit Union shall provide reasonable cooperation to facilitate any Transfers of the Subordinated Debt, including, as is reasonable under the circumstances, by furnishing such information concerning the Credit Union and its business as a proposed transferee may reasonably request and making management of the Credit Union reasonably available to respond to questions of a proposed transferee in accordance with customary practice, subject in all cases to the proposed transferee agreeing to a customary confidentiality agreement. For the avoidance of doubt, the term “third party” as used in this Section 6.6 shall not refer to an investment vehicle or other entity controlled by the Investor, or to any Affiliate of the Investor.

Section 6.7 Replacement of Subordinated Debt. Upon receipt of evidence reasonably satisfactory to the Credit Union of the loss, theft, destruction or mutilation of any Subordinated Security, and, in the case of any such loss, theft or destruction, upon delivery of a bond of indemnity reasonably satisfactory to the Credit Union (*provided* that any Holder of Subordinated Security may instead deliver to the Credit Union an indemnity agreement in form and substance reasonably satisfactory to the Credit Union), or, in the case of any such mutilation, upon surrender and cancellation of the Subordinated Security, as the case may be, the Credit Union will issue a new Subordinated Security of like tenor, in lieu of such lost, stolen, destroyed or mutilated Subordinated Security.

Section 6.8 Cancellation. All Subordinated Debt surrendered for the purpose of payment, exchange or registration of transfer, shall be surrendered to the Credit Union and promptly canceled by it, and no Subordinated Debt shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Agreement. The Credit Union shall destroy all canceled Subordinated Debt.

Section 6.9 Rule 144; Rule 144A; 4(a)(1½) Transactions. If the Letter Agreement specifies that the offer and sale of the Subordinated Debt is exempt from registration pursuant to Section 4(a)(2) of the Securities Act, the following provisions shall apply:

(a) As may be applicable if the Credit Union is not relying on the exemption set forth in Section 3(a)(5) of the Securities Act for the offer and sale of the Subordinated Debt, at all times after the Signing Date, the Credit Union covenants that (1) it will, upon the request of the Investor or any subsequent holders of the Subordinated Debt (“*Holder*s”), use its reasonable best efforts to (x), to the extent any Holder is relying on Rule 144 under the Securities Act to sell any of the Subordinated Debt, make “current public information” available, as provided in Section (c)(1) of Rule 144 (if the Credit Union is a “Reporting Issuer” within the meaning of Rule 144) or in Section (c)(2) of Rule 144 (if the Credit Union is a “Non-Reporting Issuer” within the meaning of Rule 144), in either case for such time period as necessary to permit sales pursuant to Rule 144, (y), to the extent any Holder is relying on the so-called “Section 4(a)(1½)” exemption to sell any of its Subordinated Debt, prepare and provide to such Holder such information, including the preparation of private offering memoranda or circulars or financial information, as the Holder may reasonably request to enable the sale of the Subordinated Debt pursuant to such exemption, or (z) to the extent any Holder is relying on Rule 144A under the Securities Act to sell any of its Subordinated Debt, prepare and provide to such Holder the information required pursuant to Rule 144A(d)(4), and (2) it will take such further action as any Holder may reasonably request from time to time to enable such Holder to sell Subordinated Debt without registration under the

Securities Act within the limitations of the exemptions provided by (i) the provisions of the Securities Act or any interpretations thereof or related thereto by the SEC, including transactions based on the so-called “Section 4(a)(1½)” and other similar transactions, (ii) Rule 144 or 144A under the Securities Act, as such Rules may be amended from time to time, or (iii) any similar rule or regulation hereafter adopted by the SEC; *provided* that the Credit Union shall not be required to take any action described in this Section 6.9(a) that would cause the Credit Union to become subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act if the Credit Union was not subject to such requirements prior to taking such action. Upon the request of any Holder, the Credit Union will deliver to such Holder a written statement as to whether it has complied with such requirements and, if not, the specifics thereof.

(b) If the Letter Agreement specifies that the offer and sale of the Subordinated Debt are exempt from registration pursuant to Section 3(a)(5) of the Securities Act, so long as the Subordinated Debt is subject to the exemption provided by Section 3(a)(5) of the Securities Act, the provisions of this Section 6.9 shall be interpreted so as to nonetheless provide a Holder of Subordinated Debt with the benefit of the cooperation of the Credit Union to facilitate a sale of the Subordinated Debt, including the preparation and provision of materials referenced in Section 6.9(a)(1)(y).

(c) The Credit Union agrees to indemnify Investor, Investor’s officials, officers, directors, employees, agents, representatives and Affiliates, and each person, if any, that controls Investor within the meaning of the Securities Act (each, an “*Indemnitee*”), against any and all losses, claims, damages, actions, liabilities, costs and expenses (including reasonable fees, expenses and disbursements of attorneys and other professionals incurred in connection with investigating, defending, settling, compromising or paying any such losses, claims, damages, actions, liabilities, costs and expenses), joint or several, arising out of or based upon any untrue statement or alleged untrue statement of material fact contained in any document or report provided by the Credit Union pursuant to this Section 6.9 or any omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(d) If the indemnification provided for in Section 6.9(c) is unavailable to an Indemnitee with respect to any losses, claims, damages, actions, liabilities, costs or expenses referred to therein or is insufficient to hold the Indemnitee harmless as contemplated therein, then the Credit Union, in lieu of indemnifying such Indemnitee, shall contribute to the amount paid or payable by such Indemnitee as a result of such losses, claims, damages, actions, liabilities, costs or expenses in such proportion as is appropriate to reflect the relative fault of the Indemnitee, on the one hand, and the Credit Union, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages, actions, liabilities, costs or expenses as well as any other relevant equitable considerations. The relative fault of the Credit Union, on the one hand, and of the Indemnitee, on the other hand, shall be determined by reference to, among other factors, whether the untrue statement of a material fact or omission to state a material fact relates to information supplied by the Credit Union or by the Indemnitee and the parties’ relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission; the Credit Union and Investor agree that it would not be just and equitable if contribution pursuant to this Section 6.9(d) were determined by *pro rata* allocation or by any other method of allocation that does not take account of the equitable considerations referred to in Section 6.9(b).

No Indemnitee guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from the Credit Union if the Credit Union was not guilty of such fraudulent misrepresentation.

Section 6.10 Redemption.

(a) Optional Redemption. The Credit Union may, at its option, subject to the approval of the NCUA (if then required under the regulations of NCUA, including, as of the Signing Date, 12 C.F.R. § 702.414(c) with respect to Grandfathered Secondary Capital), and in any case where the Subordinated Debt is treated as secondary capital, subject to the requirements set forth in 12 C.F.R. § 702.414 (or any successor provision) redeem the outstanding Subordinated Debt after the Original Issue Date, in whole or, subject to Section 6.10(d), in part, from time to time (any such date, a “*Redemption Date*”), in each case, at a redemption price equal to the sum of (i) 100% of the principal amount thereof being called for redemption and (ii) any accrued and unpaid interest (including any accrued and unpaid Deferred Interest). The redemption price for any Subordinated Debt shall be payable on the relevant Redemption Date to the Holder of such Subordinated Debt against surrender thereof to the Credit Union or its agent. Interest shall be paid at the then Applicable Interest Rate from the date of the last Interest Payment Date up to but not including the Redemption Date.

(b) No Sinking Fund. The Subordinated Debt will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Subordinated Debt will have no right to require redemption or repurchase of any of the Subordinated Debt.

(c) Notice of Redemption. Notice of redemption of the Subordinated Debt shall be given by first class mail, postage prepaid, addressed to the Holders of record of the Subordinated Debt to be redeemed at their respective last addresses appearing on the Subordinated Securities Register. Such mailing shall be at least thirty (30) days and not more than sixty (60) days before the relevant Redemption Date. Any notice mailed as provided in this subsection shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any Holder of Subordinated Debt designated for redemption shall not affect the validity of the proceedings for the redemption of any other Subordinated Debt. Notwithstanding the foregoing, if Subordinated Debt is issued in book-entry form through The Depository Trust Company or any other similar facility, notice of redemption may be given to the Holders of Subordinated Debt at such time and in any manner permitted by such facility. Each notice of redemption given to a Holder shall state: (1) the Redemption Date; (2) the amount of Subordinated Debt to be redeemed by such Holder; (3) the redemption price; and (4) the place or places where such Subordinated Debt is to be surrendered for payment of the redemption price.

(d) Partial Redemption. Subject to any applicable requirements in the NCUA Regulations, including with respect to Grandfathered Secondary Capital, those set forth in 12 C.F.R. § 702.414(c), the Credit Union may redeem less than all of the outstanding Subordinated Debt, *provided* that the principal amount of the Subordinated Debt called for redemption at any time is not less than [twenty percent \(20%~~%~~\)](#) of the Purchase Price (or 100% of the Subordinated Debt then outstanding if representing an aggregate principal amount less than 20% of the Purchase Price). Subject to the provisions hereof, the Board of Directors or a duly authorized committee

thereof shall have full power and authority to prescribe the terms and conditions upon which Subordinated Debt shall be redeemed from time to time. If less than the full aggregate principal amount of any Subordinated Security is redeemed, the Credit Union shall issue a new Subordinated Security in the unredeemed aggregate principal amount thereof without charge to the Holder thereof. Subordinated Debt may be redeemed in part only on a *pro rata* basis and only in minimum denominations of \$1,000 and integral multiples thereof.

(e) Effectiveness of Redemption. If notice of redemption has been duly given and if on or before the Redemption Date specified in the notice all funds necessary for the redemption have been deposited by the Credit Union, in trust for the *pro rata* benefit of the Holders of the Subordinated Debt called for redemption, with a bank or trust company doing business in the Borough of Manhattan, The City of New York, and having a capital and surplus of at least \$500 million and selected by the Board of Directors, so as to be and continue to be available solely therefor, then, notwithstanding that any Subordinated Security so called for redemption has not been surrendered for cancellation, on and after the Redemption Date interest shall cease to accrue on the aggregate principal amount of such Subordinated Debt so called for redemption, the aggregate principal amount of such Subordinated Debt so called for redemption shall no longer be deemed outstanding and shall cease to bear interest from and after the Redemption Date. All rights with respect to such Subordinated Debt (or the portion thereof so called for redemption) shall forthwith on such Redemption Date cease and terminate, except only the right of the Holders thereof to receive the redemption price payable on such redemption from such bank or trust company, without interest. Any funds unclaimed at the end of three years from the Redemption Date shall, to the extent permitted by applicable law, be released to the Credit Union, after which time the Holders of such Subordinated Debt (or portion thereof so called for redemption) shall look only to the Credit Union for payment of the redemption price of such Subordinated Debt.

(f) Status of Redeemed Securities. Subordinated Debt that ~~are~~ redeemed, repurchased or otherwise acquired by the Credit Union shall be cancelled and shall not thereafter be reissued by the Credit Union.

#### Section 6.11 Governance Rights for Non-Payment of Interest.

(a) Board Observation Rights. Whenever, at any time or times, interest on the Subordinated Debt has not been paid for an aggregate of five (5) Interest Periods or more, whether due to deferral pursuant to Section 6.14 or otherwise and whether or not consecutive, the Credit Union shall invite a representative (a “*Subordinated Observer*”) selected by the Holders holding more than fifty percent (50%) of the aggregate outstanding principal amount of the Subordinated Debt (the “*Majority Holders*”), voting as a single class, to attend all meetings of the Board of Directors in a nonvoting observer capacity, such observer capacity limited to meetings and information that may reasonably affect the Investor’s investment or rights hereunder, and shall give such Subordinated Observer copies of all notices, minutes, consents, and other materials that it provides to its directors in connection with such meetings (subject to disclosure limitations under applicable law); *provided*, that the Holders not be obligated to select a Subordinated Observer, nor shall such Subordinated Observer, if selected, be obligated to attend any meeting to which he/she is invited. Prior to attending any meetings of the Board of Directors or receiving any materials contemplated by the preceding sentence, the Subordinated Observer shall enter into a confidentiality agreement with the Credit Union prepared by the Investor and in form and

substance satisfactory to the Investor; *provided* that the confidentiality agreement shall provide that the Subordinated Observer agrees to remove himself or herself from any discussions of information whose disclosure to the Subordinated Observer is prohibited under applicable law or regulation, including 12 C.F.R. § 792.30, or the bylaws of the Credit Union, if requested by the Board of Directors. The rights of the Holders set forth in this Section 6.11(a) shall terminate when interest payments have been timely paid in full on the Subordinated Debt for at least four (4) consecutive Interest Periods and there is no unpaid Deferred Interest, subject to revesting in the event of each and every subsequent default of the character above mentioned. Notwithstanding the foregoing, the Subordinated Observer shall not have any rights granted to directors pursuant to the Federal Credit Union Act, the NCUA Regulations or the bylaws of the Credit Union, and shall not participate in, or contribute to discussions, of the Board of Directors unless called upon by the directors of the Credit Union. Any discussions of the Board of Directors at which the Subordinated Observer is present shall be conducted in accordance with applicable law and regulation, including 12 C.F.R. Part 792 of the NCUA Regulations.

Section 6.12 Communications to Holders. Any Holder shall have the right, upon five (5) business days prior written notice to the Credit Union or its duly appointed agent to obtain a complete list of Holders. In addition, any Holder shall have the right to request that the Credit Union or its duly appointed agent send a notice on behalf of such Holder to all other Holders at the addresses set forth on the Subordinated Securities Register.

Section 6.13 Noncompliance. The Credit Union acknowledges and agrees that this Agreement is entered into under Section 104A of the Community Development Banking Act and that the ECIP Interim Final Rule was promulgated under that Act and, accordingly, where applicable, the enforcement of the provisions of the Agreement and the ECIP Interim Final Rule (and any violations thereof) are subject to 12 U.S.C. § 4717. The Credit Union further acknowledges and agrees that the Investor may inform the Appropriate Supervisory Authority of the Credit Union's apparent noncompliance.

Section 6.14 Deferral of Interest.

(a) Payments of interest on the Subordinated Debt shall be deferred for any Interest Period, with the result that such payment of interest shall not be due on the originally scheduled Interest Payment Date and shall instead be due on a subsequent Interest Payment Date or the Maturity Date, as applicable and as determined in accordance with this Section 6.14, if, as of the applicable Interest Payment Date, any of the following is true:

(i) the Credit Union fails to be classified as “well capitalized”, as defined in 12 C.F.R. § 702.102(a)(1) of the NCUA's regulations (or any successor provision);

(ii) the Credit Union failed to achieve positive net income for the most recently completed quarter prior to the relevant Interest Payment Date; or

(iii) the Credit Union determines that the payment would be detrimental to the financial health of the Credit Union, and the principal executive officer and principal financial officer of the Credit Union provide written notice, in a form reasonably satisfactory to the Investor, of such determination and the basis thereof.

(b) Any interest installment that is deferred pursuant to Section 6.14(a) (“*Deferred Interest*”) shall be tested against Section 6.14(a)(i)–Section 6.14(a)(iii) at each subsequent Interest Payment Date, and the applicable Interest Deferral Period shall continue until none of the items in Section 6.14(a)(i)–Section 6.14(a)(iii) is true. Deferred Interest shall be payable on any Interest Payment Date and shall become due at the first Interest Payment Date as of which none of such items is true. No Interest Deferral Period may end on a date other than an Interest Payment Date or extend beyond the Maturity Date, as the case may be. During any Interest Deferral Period, interest will continue to accrue on the principal amount of the Subordinated Debt in accordance with the terms thereof, but no additional interest will accrue on any Deferred Interest. If an Interest Deferral Period has occurred and is continuing on the Maturity Date, any accrued and unpaid deferred interest shall be due on the Maturity Date.

(c) The Credit Union may, in its discretion, provide the Investor notice that it waives the deferral provisions set forth in Section 6.14(a) above with respect to any Interest Payment Date, and may pay interest that would otherwise be subject to deferral. Notwithstanding any such waiver pursuant to this Section 6.14(c), the Credit Union’s interest payments must adhere to any distribution or interest payment limitations set forth by the Credit Union’s Appropriate Supervisory Authority.

#### Section 6.15 Secondary Capital Account Status.

(a) Characterization of Subordinated Debt. If the Credit Union is a low-income designated Credit Union, the Investor and the Credit Union hereby agree that the funds received by the Credit Union in connection with the Purchase shall be deposited into an account (the “*Secondary Capital Account*”) and that the Secondary Capital Account, together with the Subordinated Debt, shall constitute a “secondary capital account” for purposes of the NCUA Regulations.

(b) Characterization of Letter Agreement. The Investor and the Credit Union hereby agree that the Letter Agreement shall constitute a “secondary capital account contract agreement” as contemplated by Section 702.414(a)(10) (or any successor provision) of the NCUA Regulations.

(c) Availability to Cover Losses. The Investor and the Credit Union hereby agree that funds deposited in the Secondary Capital Account shall be available to cover operating losses realized by the Credit Union that exceed the Credit Union’s net available reserves (exclusive of secondary capital and allowance accounts for loan and lease losses) (see 12 C.F.R. § 702.414(a)(7)). To the extent funds held in the Secondary Capital Account are used for the foregoing purpose, the Credit Union shall not restore or replenish the Secondary Capital Account under any circumstances.

(d) Security. The Investor hereby agrees that it shall not pledge or provide the Secondary Capital Account as security on a loan or other obligation with the Credit Union or any other party.

#### Section 6.16 Expenses and Further Assurances.

(a) Unless otherwise provided in this Agreement, each of the parties hereto will bear and pay all costs and expenses incurred by it or on its behalf in connection with the transactions



contemplated under this Agreement, including fees and expenses of its own financial or other consultants, investment bankers, accountants and counsel.

(b) The Credit Union shall, at the Credit Union's sole cost and expense, (i) furnish to the Investor all instruments, documents and other agreements required to be furnished by the Credit Union pursuant to the terms of this Agreement, including any documents required to be delivered pursuant to Section 6.9 above, or which are reasonably requested by the Investor in connection therewith; (ii) execute and deliver to the Investor such documents, instruments, certificates, assignments and other writings, and do such other acts necessary or desirable, to evidence, preserve and/or protect the Subordinated Debt purchased by the Investor, as Investor may reasonably require; and (iii) do and execute all and such further lawful and reasonable acts, conveyances and assurances for the better and more effective carrying out of the intents and purposes of this Agreement, as the Investor shall reasonably require from time to time.

## **ARTICLE VII SUBORDINATION OF THE SUBORDINATED DEBT**

### Section 7.1 Agreement to Subordinate.

(a) The Credit Union covenants and agrees, and each Holder of Subordinated Debt issued hereunder likewise covenants and agrees, that the Subordinated Debt shall be issued subject to the provisions of this Article VII; and each Holder of Subordinated Security, whether upon original issue or upon transfer or assignment thereof, accepts and agrees to be bound by such provisions.

(b) The payment by the Credit Union of the principal of and interest on all Subordinated Debt issued hereunder shall, to the extent and in the manner hereinafter set forth, be subordinated and subject in right of payment to the prior payment in full of all amounts then due and payable in respect of Senior Indebtedness, whether outstanding at the date of this Agreement or thereafter incurred, and to all other claims on the assets of the Credit Union, including claims of member shareholders, creditors and the National Credit Union Share Insurance Fund.

(c) If Credit Union is not a low-income designated Credit Union, the Holder of the Subordinated Security agrees to be subject to the same payout priority as "secondary capital" for purposes of the NCUA Regulations, and specifically as set forth in 12 C.F.R. § 709.5(b)(8) (or any successor provision), as though the Subordinated Security was secondary capital, and hereby expressly waives any right to a higher payout priority, including the priority set forth in 12 C.F.R. § 709.5(b)(5) (or any successor provision).

(d) If Credit Union is a low-income designated Credit Union, the Holder of the Subordinated Security agrees to be subject to the payout priorities applicable to Grandfathered Secondary Capital for purposes of the NCUA Regulations, and specifically as set forth in 12 C.F.R. § 709.5(b)(8) (or any successor provision), and to comply with the terms set forth in the Credit Union's secondary capital plan pursuant, in accordance with the requirements set forth in 12 C.F.R. § 702.414(a) (or any successor provision).

(e) No provision of this Article VII shall prevent the occurrence of any Event of Default (or any event which, after notice or the lapse of time or both would become, an Event of Default) with respect to the Subordinated Debt hereunder.

Section 7.2 Default on Senior Indebtedness.

(a) In the event and during the continuation of any default by the Credit Union in the payment of principal, premium, interest or any other payment due on any Senior Indebtedness, no payment shall be made by the Credit Union with respect to the principal or interest on the Subordinated Debt or any other amounts which may be due on the Subordinated Debt pursuant to the terms hereof or thereof.

(b) In the event of the acceleration of the maturity of the Senior Indebtedness, then no payment shall be made by the Credit Union with respect to the principal or interest on the Subordinated Debt or any other amounts which may be due on the Subordinated Debt pursuant to the terms hereof or thereof until the holders of all Senior Indebtedness outstanding at the time of such acceleration shall receive payment, in full, of all amounts due on or in respect of such Senior Indebtedness (including any amounts due upon acceleration).

(c) In the event that, notwithstanding the foregoing, any payment is received by any Holder of a Subordinated Security, when such payment is prohibited by the preceding paragraphs of this Section 7.2, such payment shall be held in trust for the benefit of, and shall be paid over or delivered by the Holder of the Subordinated Security to the holders of Senior Indebtedness or their respective representatives, or to the trustee or trustees under any indenture pursuant to which any of such Senior Indebtedness may have been issued, as their respective interests may appear, but only to the extent of the amounts in respect of such Senior Indebtedness and to the extent that the holders of the Senior Indebtedness (or their representative or representatives or a trustee) notify the Credit Union in writing within ninety (90) days of such payment of the amounts then due and owing on such Senior Indebtedness, and only the amounts specified in such notice to the Credit Union shall be paid to the holders of such Senior Indebtedness. The Credit Union shall, within ten (10) business days of receipt of such notice, provide Investor with (i) a copy of such notice delivered to the Credit Union and (ii) a certificate signed on behalf of the Credit Union by a Senior Executive Officer certifying that the information set forth in such notice is true and correct and confirming that the Holder of the Subordinated Security should pay or deliver the amounts specified in such notice in the manner specified therein.

Section 7.3 Liquidation; Dissolution.

(a) Upon any payment by the Credit Union or distribution of assets of the Credit Union of any kind or character, whether in cash, property or securities, to creditors upon any dissolution, winding-up, liquidation or reorganization of the Credit Union, whether voluntary or involuntary or in insolvency, receivership or other proceedings, the holders of all Senior Indebtedness of the Credit Union will first be entitled to receive payment in full of amounts due on or in respect of such Senior Indebtedness, before any payment is made by the Credit Union on account of the principal of or interest on the Subordinated Debt or any other amounts which may be due on the Subordinated Debt pursuant to the terms hereof or thereof; and upon any such dissolution, winding-up, liquidation or reorganization, any payment by the Credit Union, or distribution of

assets of the Credit Union of any kind or character, whether in cash, property or securities, which the Holder of the Subordinated Debt would be entitled to receive from the Credit Union, except for the provisions of this Article VII, shall be paid by the Credit Union or by any receiver, liquidating trustee, agent or other person making such payment or distribution, or by the Holder of the Subordinated Debt under this Agreement if received by them or it, directly to the holders of Senior Indebtedness of the Credit Union (*pro rata* to such holders on the basis of the respective amounts of Senior Indebtedness held by such holders, as calculated by the Credit Union) or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing such Senior Indebtedness may have been issued, as their respective interests may appear, to the extent necessary to pay all such amounts of Senior Indebtedness in full, in money or money's worth, after giving effect to any concurrent payment or distribution to or for the holders of such Senior Indebtedness, before any payment or distribution is made to the Holder of the Subordinated Debt.

(b) In the event that, notwithstanding the foregoing, any payment or distribution of assets of the Credit Union of any kind or character prohibited by Section 7.3(a), whether in cash, property or securities, shall be received by any Holder of the Subordinated Debt, before the amounts of all Senior Indebtedness ~~is~~are paid in full, or provision is made for such payment in money in accordance with its terms, such payment or distribution shall be held in trust for the benefit of and shall be paid over or delivered by any Holder of a Subordinated Security, to the holders of such Senior Indebtedness or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing such Senior Indebtedness may have been issued, as their respective interests may appear, as calculated by the Credit Union, for application to the payment of all amounts of Senior Indebtedness remaining unpaid to the extent necessary to pay all amounts due on or in respect of such Senior Indebtedness in full in money in accordance with its terms, after giving effect to any concurrent payment or distribution to or for the benefit of the holders of such Senior Indebtedness. In such event, the Credit Union shall provide Investor with a certificate signed on behalf of the Credit Union by a Senior Executive Officer confirming that the Holder of the Subordinated Debt should pay or deliver such amounts to the holders of such Senior Indebtedness.

(c) For purposes of this Article VII, the words “*cash, property or securities*” shall not be deemed to include Capital Interests in the Credit Union as reorganized or readjusted, or securities of the Credit Union or any other entity provided for by a plan of reorganization or readjustment, the payment of which is subordinated at least to the extent provided in this Article VII with respect to the Subordinated Debt to the payment of Senior Indebtedness that may at the time be outstanding, *provided* that (i) such Senior Indebtedness is assumed by the new entity, if any, resulting from any such reorganization or readjustment, and (ii) the rights of the holders of such Senior Indebtedness are not, without the consent of such holders, altered by such reorganization or readjustment. The consolidation of the Credit Union with, or the merger of the Credit Union into, another person or the liquidation or dissolution of the Credit Union following the sale, conveyance, transfer or lease of its property as an entirety, or substantially as an entirety, to another person upon the terms and conditions provided for in Section 4.2(a) of this Agreement shall not be deemed a dissolution, winding-up, liquidation or reorganization for the purposes of this Section 7.3 if such other person shall, as a part of such consolidation, merger, sale, conveyance, transfer or lease, comply with the conditions stated in Section 4.2(a) of this Agreement.

Section 7.4 Subrogation.

(a) Subject to the payment in full of all ~~of~~ Senior Indebtedness, the rights of the Holders of the Subordinated Debt shall be subrogated to the rights of the holders of such Senior Indebtedness to receive payments or distributions of cash, property or securities of the Credit Union, as the case may be, applicable to such Senior Indebtedness until the principal of and interest on the Subordinated Debt shall be paid in full; and, for the purposes of such subrogation, no payments or distributions to the holders of such Senior Indebtedness of any cash, property or securities to which the Holders of the Subordinated Debt would be entitled except for the provisions of this Article VII, and no payment pursuant to the provisions of this Article VII to or for the benefit of the holders of such Senior Indebtedness by the Holders of the Subordinated Debt shall, as between the Credit Union, its creditors other than holders of Senior Indebtedness of the Credit Union, and the Holders of the Subordinated Debt, be deemed to be a payment by the Credit Union to or on account of such Senior Indebtedness. It is understood that the provisions of this Article VII are intended solely for the purposes of defining the relative rights of the Holders of the Subordinated Debt, on the one hand, and the holders of such Senior Indebtedness on the other hand.

(b) Nothing contained in this Article VII or elsewhere in this Agreement or in the Subordinated Debt is intended to or shall impair, as between the Credit Union, its creditors other than the holders of Senior Indebtedness of the Credit Union, and the Holders of the Subordinated Debt, the obligation of the Credit Union, which is absolute and unconditional, to pay to the Holders of the Subordinated Debt the principal of and interest on the Subordinated Debt as and when the same shall become due and payable in accordance with their terms, or is intended to or shall affect the relative rights of the Holders of the Subordinated Debt and creditors of the Credit Union, as the case may be, other than the holders of Senior Indebtedness of the Credit Union, as the case may be, nor shall anything herein or therein prevent the Holder of any Subordinated Debt from exercising all remedies otherwise permitted by applicable law upon default under this Agreement, subject to the rights, if any, under this Article VII of the holders of such Senior Indebtedness in respect of cash, property or securities of the Credit Union, as the case may be, received upon the exercise of any such remedy.

Section 7.5 Notice by the Credit Union.

(a) The Credit Union shall give prompt written notice to the Holders of the Subordinated Debt of any fact known to the Credit Union that would prohibit the making of any payment of monies in respect of the Subordinated Debt pursuant to the provisions of this Article VII.

(b) Upon any payment or distribution of assets of the Credit Union referred to in this Article VII, the Holders of the Subordinated Debt shall be entitled to conclusively rely upon any order or decree entered by any court of competent jurisdiction in which such insolvency, receivership, liquidation, reorganization, dissolution, winding-up or similar case or proceeding is pending, or a certificate of the liquidating trustee, custodian, receiver, assignee for the benefit of creditors, agent or other person making such payment or distribution, delivered to the Holders of the Subordinated Debt, for the purpose of ascertaining the persons entitled to participate in such payment or distribution, the holders of Senior Indebtedness and other indebtedness of the Credit

Union, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article VII.

**Section 7.6 Subordination May Not Be Impaired.**

(a) No right of any present or future holder of any Senior Indebtedness of the Credit Union to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Credit Union, as the case may be, or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Credit Union, as the case may be, with the terms, provisions and covenants of this Agreement, regardless of any knowledge thereof that any such holder may have or otherwise be charged with.

(b) Without in any way limiting the generality of the foregoing paragraph, the holders of Senior Indebtedness of the Credit Union may, at any time and from time to time, without the consent of or notice to the Holders of the Subordinated Debt, without incurring responsibility to the Holders of the Subordinated Debt and without impairing or releasing the subordination provided in this Article VII or the obligations hereunder of the Holders of the Subordinated Debt to the holders of such Senior Indebtedness, do any one or more of the following: (i) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, such Senior Indebtedness, or otherwise amend or supplement in any manner such Senior Indebtedness or any instrument evidencing the same or any agreement under which such Senior Indebtedness is outstanding; (ii) sell, exchange, release or otherwise deal with any property pledged, mortgaged or otherwise securing such Senior Indebtedness; (iii) release any person liable in any manner for the collection of such Senior Indebtedness; and (iv) exercise or refrain from exercising any rights against the Credit Union, as the case may be, and any other person.

**ARTICLE VIII  
MISCELLANEOUS**

**Section 8.1 Termination.** This Agreement shall terminate upon the earliest to occur of:

(a) termination at any time prior to the Closing:

(i) by either the Investor or the Credit Union if the Closing shall not have occurred by the thirtieth (30<sup>th</sup>) calendar day following the Signing Date; *provided, however*, that in the event the Closing has not occurred by such thirtieth (30<sup>th</sup>) calendar day, the parties will consult in good faith to determine whether to extend the term of this Agreement, it being understood that the parties shall be required to consult only until the fifth calendar day after such thirtieth (30<sup>th</sup>) calendar day and not be under any obligation to extend the term of this Agreement thereafter; *provided, further*, that the right to terminate this Agreement under this Section 8.1(a)(i) shall not be available to any party whose breach of any representation or warranty or failure to perform any obligation under this Agreement shall have caused or resulted in the failure of the Closing to occur on or prior to such date; or

(ii) by either the Investor or the Credit Union in the event that any Governmental Entity shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the transactions contemplated by this

Agreement and such order, decree, ruling or other action shall have become final and nonappealable; or

- (iii) by the mutual written consent of the Investor and the Credit Union; or
- (b) the date on which all the Subordinated Debt has been redeemed in whole; or
- (c) if the Closing shall not have occurred by June 30, 2022, on such date.

In the event of termination of this Agreement as provided in this Section 8.1, this Agreement shall forthwith become void and there shall be no liability on the part of either party hereto except that nothing herein shall relieve either party from liability for any breach of this Agreement.

Section 8.2 Survival.

(a) This Agreement and all representations, warranties, covenants and agreements made herein shall survive the Closing without limitation.

(b) The rights and remedies of Treasury with respect to the representations, warranties, covenants and obligations of the Credit Union herein shall not be affected by any investigation conducted with respect to, or any knowledge acquired (or capable of being acquired) at any time by Treasury or any of its personnel or agents with respect to the accuracy or inaccuracy of, or compliance with, any such representation, warranty, covenant or obligation.

Section 8.3 Amendment. No amendment, modification, termination or waiver of any provision of this Agreement or the Subordinated Debt or any of the other Transaction Documents will be effective unless made in writing and signed by an officer or a duly authorized representative of each party hereto, and, in the case of any amendment, modification, termination or waiver affecting the Subordinated Debt, the Majority Holders; *provided* that for so long as the Subordinated Debt is outstanding, the Investor may at any time and from time to time unilaterally amend this Agreement to the extent the Investor deems necessary, in its sole discretion, to comply with, or conform to, any changes after the Signing Date in any federal statutes, and any rules and regulations ~~promulgated thereunder and any other publications or interpretative releases of the Investor governing ECIP~~; *provided, further*, that, notwithstanding anything else in this Section 8.3, no amendment, modification, termination or waiver with respect to the Subordinated Debt shall, unless in writing and signed by all Holders, do any of the following: (a) change the principal of or the rate of interest on any Subordinated Security; (b) extend any date fixed for any payment of principal or interest; (c) change the definition of the terms “*Holders*” or “*Majority Holders*” or the percentage of Holders which shall be required for Holders to take any action hereunder; (d) amend or waive this Section 8.3 or the definitions of the terms used in this Section 8.3 insofar as the definitions affect the substance of this Section 8.3; or (e) consent to the assignment, delegation or other transfer by the Credit Union of any of its rights and obligations under any Transaction Documents. Any amendment, modification, termination, waiver or consent effected in accordance with this Section 8.3 shall be binding upon each Holder of the Subordinated Debt at the time outstanding, each future Holder of the Subordinated Debt and the Credit Union. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any other

right, power or privilege. The rights and remedies herein provided shall be cumulative of any rights or remedies provided by law.

Section 8.4 Waiver of Conditions. The conditions to each party's obligation to consummate the Purchase are for the sole benefit of such party and may be waived by such party in whole or in part to the extent permitted by applicable law. No waiver will be effective unless it is in a writing signed by a duly authorized officer of the waiving party that makes express reference to the provision or provisions subject to such waiver.

Section 8.5 Governing Law; Submission to Jurisdiction, etc. This Agreement and any claim, controversy or dispute arising under or related to this Agreement, the relationship of the parties, and/or the interpretation and enforcement of the rights and duties of the parties shall be enforced, governed, and construed in all respects (whether in contract or in tort) in accordance with the federal law of the United States if and to the extent such law is applicable, and otherwise in accordance with the laws of the State of New York applicable to contracts made and to be performed entirely within such State. Each of the parties hereto agrees (a) to submit to the exclusive jurisdiction and venue of the United States District Court for the District of Columbia and the United States Court of Federal Claims for any and all civil actions, suits or proceedings arising out of or relating to this Agreement or the Purchase contemplated hereby and (b) that notice may be served upon (i) the Credit Union at the address and in the manner set forth for notices to the Credit Union in Section 8.6 and (ii) the Investor at the address and in the manner set forth for notices to the Credit Union in Section 8.6, but otherwise in accordance with federal law. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES HERETO HEREBY UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY CIVIL LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR THE PURCHASE CONTEMPLATED HEREBY.

Section 8.6 Notices. Any notice, request, instruction or other document to be given hereunder by any party to the other will be in writing and will be deemed to have been duly given (a) on the date of delivery if delivered personally, or by facsimile, upon confirmation of receipt, or (b) on the second business day following the date of dispatch if delivered by a recognized next day courier service. All notices to the Credit Union shall be delivered as set forth in Schedule A, or pursuant to such other instruction as may be designated in writing by the Credit Union to the Investor. All notices to the Holders of Subordinated Debt shall be delivered in writing, mailed first-class postage prepaid, to each Holder of a Subordinated Security at the address of such Holder as it appears in the Subordinated Securities Register. All notices to the Investor shall be delivered as set forth below, or pursuant to such other instructions as may be designated in writing by the Investor to the Credit Union.

If to the Investor:

United States Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220  
Attention: [to come]  
Facsimile: [to come]  
E-mail: [to come]

with a copy to:

[Address to come]  
Attention: [to come]  
Facsimile: [to come]  
E-mail: [to come]

Section 8.7 Assignment. Neither this Agreement nor any right, remedy, obligation nor liability arising hereunder or by reason hereof shall be assignable by any party hereto without the prior written consent of the other party, and any attempt to assign any right, remedy, obligation or liability hereunder without such consent shall be void, except (a) an assignment, in the case of a merger, consolidation, statutory share exchange or similar transaction that requires the approval of the Credit Union's Interest Holders or other equity securityholders (a "*Business Combination*") where such party is not the surviving entity, or a sale of substantially all of its assets, to the entity which is the survivor of such Business Combination or the purchaser in such sale, (b) an assignment of certain access and information rights as provided in Section 4.1(c) or the right to receive Qualified Lending Reports as provided in Section 4.1(h) or (c) an assignment by the Investor of this Agreement to an Affiliate of the Investor; *provided* that, if the Investor assigns this Agreement to an Affiliate, the Investor shall be relieved of its obligations under this Agreement but (i) all rights, remedies and obligations of the Investor hereunder shall continue and be enforceable by such Affiliate, (ii) the Credit Union's obligations and liabilities hereunder shall continue to be outstanding and (iii) all references to the Investor herein shall be deemed to include such Affiliate.

Section 8.8 Severability. If any provision of this Agreement or the Subordinated Debt, or the application thereof to any person or circumstance, is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to persons or circumstances other than those as to which it has been held invalid or unenforceable, will remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination, the parties shall negotiate in good faith in an effort to agree upon a suitable and equitable substitute provision to effect the original intent of the parties.

Section 8.9 No Third-Party Beneficiaries. Other than as expressly provided herein, nothing contained in this Agreement, expressed or implied, is intended to confer upon any person or entity other than the Credit Union, the Investor, ~~any Holder~~, and any Indemnitee any benefit, right or remedies.



Section 8.10 Specific Performance. The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms. It is accordingly agreed that the parties shall be entitled (without the necessity of posting a bond) to specific performance of the terms hereof, this being in addition to any other remedies to which they are entitled at law or equity.

\* \* \*

**ANNEX A**

**FORM OF SUBORDINATED SECURITY**

[ATTACHED]

**FORM OF OFFICER’S CERTIFICATE**

OFFICER’S CERTIFICATE OF

[CREDIT UNION]

In connection with that certain letter agreement, dated [\_\_\_\_], 20[ ] (the “*Agreement*”) by and between [CREDIT UNION] (the “*Credit Union*”) and the United States Department of the Treasury which incorporates that certain Securities Purchase Agreement –Standard Terms referred to therein (the “*Standard Terms*”), the undersigned does hereby certify as follows:

1. I am a duly elected/appointed [\_\_\_\_\_] of the Credit Union.
2. The representations and warranties of the Credit Union set forth in Section 3.1 of the Standard Terms are true and correct in all respects as though as of the date hereof (other than representations and warranties that by their terms speak as of another date, which representations and warranties shall be true and correct in all respects as of such other date), and the Credit Union has performed in all material respects all obligations required to be performed by it under the Agreement.
3. The Credit Union is an Eligible Financial Institution and, as applicable, has delivered to the Investor true, complete and correct copies of any certifications pertinent to its status as an Eligible Financial Institution.
4. If the Credit Union is a low-income designated Credit Union, [attached hereto as Exhibit B is a true, complete and correct copy of the SCP Notice][forty-five days have elapsed since the Credit Union submitted a Secondary Capital Plan related to the Subordinated Debt to its Appropriate Supervisory Authority and such Secondary Capital Plan has neither been approved or disapproved].
5. No material changes have been made, or are anticipated to be made, to the Investment and Lending Plan the Credit Union submitted in connection with its ECIP Application.
6. The Credit Union is in compliance with the provisions of Section 104A of the Community Development Banking and Financial Institutions Act of 1994, and all rules and regulations issued thereunder, including the ECIP Interim Final Rule.
7. Neither the Credit Union nor any Credit Union Subsidiary is a “covered entity” as defined in Section 104A(h)(2)(ii) of the Community Development Banking Act.

The foregoing certifications are made and delivered as of [\_\_\_\_\_] pursuant to Section 2.3 of the Standard Terms.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to them in the Standard Terms.

IN WITNESS WHEREOF, this Officer's Certificate has been duly executed and delivered as of the [\_\_\_\_] day of [\_\_\_\_\_], 20[ \_\_\_\_].

**[CREDIT UNION]**

By: \_\_\_\_\_

Name:

Title:

**FORM OF OPINION**

(a) The Credit Union has been duly formed and is validly existing as an organization of the type described in Schedule A. The Credit Union has all necessary power and authority to own, operate and lease its properties and to carry on its business as it is being conducted.

(b) The Credit Union has been duly qualified as a foreign entity for the transaction of business and is, if applicable, in good standing, under the laws of each jurisdiction in which it owns or leases material properties or conducts any material business so as to require such qualification.

(c) The Subordinated Debt has been duly and validly authorized, and, when executed and delivered pursuant to the Agreement, the Subordinated Debt will be the legal, valid and binding obligations of the Credit Union, enforceable in accordance with their terms, except as the same may be limited by applicable receivership, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity.

(d) The Credit Union has the power and authority to execute and deliver the Agreement and to carry out its obligations thereunder (which includes the issuance of the Subordinated Debt).

(e) The execution, delivery and performance by the Credit Union of the Agreement and the consummation of the transactions contemplated thereby have been duly authorized by all necessary entity action on the part of the Credit Union and its Interest Holders, and no further approval or authorization is required on the part of the Credit Union.

(f) The Agreement is a legal, valid and binding obligation of the Credit Union enforceable against the Credit Union in accordance with its terms, except as limited by applicable receivership, bankruptcy, insolvency, reorganization, moratorium, conservatorship or similar laws affecting the enforcement of creditors' rights generally and general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity.

(g) The execution and delivery by the Credit Union of the Agreement and the performance by the Credit Union of its obligations thereunder (i) do not require any approval by any Governmental Entity to be obtained on the part of the Credit Union, except those that have been obtained, (ii) do not violate or conflict with any provision of the Charter, (iii) do not violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration of, or result in the creation of, any lien, security interest, charge or encumbrance upon any of the properties or assets of the Credit Union or any Credit Union Subsidiary under any of the terms, conditions or provisions of its organizational documents or under any agreement, contract, indenture, lease, mortgage, power of attorney, evidence of indebtedness, letter of credit, license, instrument, obligation, purchase or sales order, or other commitment, whether oral or written, to which it is a party or by which it or any of its properties is bound or (iv) do not conflict with, breach or result in a violation of, or default under any judgment, decree or order known to us that

is applicable to the Credit Union and, pursuant to any applicable laws, is issued by any Governmental Entity having jurisdiction over the Credit Union.

(h) Other than such filings and approvals as are required to be made or obtained under any state “blue sky” laws and such consents and approvals that have been made or obtained, no notice to, filing with, exemption or review by, or authorization, consent or approval of, any Governmental Entity is required to be made or obtained by the Credit Union in connection with the consummation by the Credit Union of the Purchase.

(i) The Credit Union is not nor, after giving effect to the issuance of the Subordinated Debt pursuant to the Agreement, would be on the date hereof an “investment company” or an entity “controlled” by an “investment company,” as such terms are defined in the Investment Company Act of 1940.

(j) The Credit Union is an Eligible Financial Institution.

ANNEX D

**FORM OF ECIP INTERIM FINAL RULE CERTIFICATION**

**ECIP CERTIFICATION OF  
[CREDIT UNION]**

In connection with that certain Letter Agreement, dated [\_\_\_\_], 20[ ] (the “*Agreement*”) by and between [CREDIT UNION] (the “*Credit Union*”) and the United States Department of the Treasury (the “*Investor*”), the undersigned does hereby certify on behalf of the Credit Union as follows:

1. I am a duly elected/appointed Senior Executive Officer of the Credit Union;
2. From the Closing Date through the date of this certification, the Credit Union has complied with the requirements in:
  - a. 31 C.F.R. 35.22(a), which addresses restrictions on executive compensation;
  - b. 31 C.F.R. 35.22(b), which addresses restrictions on severance payments;
  - c. 31 C.F.R. 35.22(c), which addresses restrictions on excessive or luxury expenditures;
  - d. 31 C.F.R. 35.22(d), which addresses material changes in policies or procedures maintained for purposes of compliance with 31 C.F.R. 35.22(a)–(c);
  - e. 31 C.F.R. 35.23(a), which addresses restrictions on capital distributions due to nonpayment of the Subordinated Debt; and
  - f. 31 C.F.R. 35.23(b), which addresses limitations on the amount of capital distributions; ~~and.~~
3. The undersigned and the Credit Union understand that a knowing and willful false or fraudulent statement made in connection with this certification may be punished by fine, imprisonment, or both. (See, for example, 18 U.S.C. 1001).

The foregoing certifications are made and delivered as of [\_\_\_\_] pursuant to Section 4.1(d)(iii) of the Agreement.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to them in the Agreement unless otherwise stated.

*[Signature page follows]*

IN WITNESS WHEREOF, this Certificate has been duly executed and delivered as of the [ ] day of [ ], 20[ ].

**[CREDIT UNION]**

By: \_\_\_\_\_  
Name:  
Title: [Chief Executive Officer/  
Chief Financial Officer]

By: \_\_\_\_\_  
Name:  
Title:



ANNEX E

**FORM OF DISCLOSURE AND ACKNOWLEDGMENT FOR LOW-INCOME  
DESIGNATED CREDIT UNIONS**

[Name of Credit Union] and the United States Department of the Treasury hereby acknowledge and agree that the United States Department of the Treasury has committed [amount of funds] to a Secondary Capital Account with [name of Credit Union] under the following terms and conditions:

1. *Term.* The funds committed to the secondary capital account are committed for a period of [fifteen (15)][thirty (30)] years.
2. *Redemption prior to maturity.* Subject to the conditions set forth in 12 C.F.R. § 702.414 (or any successor provision), the funds committed to the Secondary Capital Account are redeemable prior to maturity only at the option of the [name of Credit Union] and only with the prior written approval of the National Credit Union Administration.
3. *Uninsured, non-share account.* The Secondary Capital Account is not a share account and the funds committed to the Secondary Capital Account are not insured by the National Credit Union Share Insurance Fund or any other governmental or private entity.
4. *Prepayment risk.* Redemption of the Secondary Capital Account prior to the account's original maturity date may expose the account investor to the risk of being unable to reinvest the repaid funds at the same rate of interest for the balance of the period remaining until the original maturity date. The Investor acknowledges that it understands and assumes responsibility for prepayment risk associated with the [name of Credit Union]'s redemption of the Investor's Secondary Capital Account prior to the original maturity date.
5. *Availability to cover losses.* The funds committed to the Secondary Capital Account and any interest paid into the account may be used by [name of Credit Union] to cover any and all operating losses that exceed the Credit Union's net worth exclusive of allowance accounts for loan losses, and in the event the funds are so used, [name of Credit Union] will under no circumstances restore or replenish those funds to the United States Department of the Treasury. Dividends are not considered operating losses and are not eligible to be paid out of secondary capital.
6. *Accrued interest.* By initialing below, [name of Credit Union] and the Investor agree that accrued interest will be:

Paid into and become part of the secondary capital account;

Paid directly to the Investor;

Paid into a separate account from which the Investor may make withdrawals; or

Any combination of the above provided the details are specified and agreed to in writing.

7. *Subordination of claims.* In the event of liquidation of [name of Credit Union], the funds committed to the Secondary Capital Account will be subordinate to all other claims on the assets of the Credit Union, including claims of member shareholders, creditors and the National Credit Union Share Insurance Fund.

8. *Prompt Corrective Action.* Under certain net worth classifications (*see* 12 C.F.R. §§ 702.109(b)(11) and 702.204(b), as the case may be), the board of directors of the NCUA may prohibit [name of Credit Union] from paying principal, dividends or interest on its uninsured secondary capital accounts established after [•], except that unpaid dividends or interest will continue to accrue under the terms of the account to the extent permitted by law.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to them in the Standard Terms.

[SIGNATURE PAGE FOLLOWS]

ACKNOWLEDGED AND AGREED TO this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by:

**INVESTOR**

\_\_\_\_\_  
Name:

Title:

United States Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220  
Attention: [*to come*]

**[CREDIT UNION]**

\_\_\_\_\_  
Name:

Title: